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of the

General Assembly

of the

Commonwealth of Kentucky

2000 Regular Session

Volume III

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2000,
and in the Two Hundred and Eighth
Year of the Commonwealth

Begun on Tuesday, the Fourth Day of January, 2000, and Adjourned
Sine Die on Friday, April 14, 2000

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 2000.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Wilda Bond, Kathy Green, and Stacy Smither prepared the *House Journal* for the 2000 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2000

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MARCH 9, 2000

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Charles Ellestad, Church of Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 8, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 288**

Banking and Insurance: **SB 245**

Local Government: **SB 326**

Transportation: **SB 313**

Report of Committees

The Committee on Education reported **HB 285,** with Committee Substitute attached thereto, **HB 519,** with Committee Substitute attached thereto, **HB 850,** with Committee Substitute attached thereto, **HB 873, HCR 127,** with Committee Substitute attached thereto, and **HJR 141,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to school principals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.290 is amended to read as follows:

(1) Each board of education shall have general control and management of the public schools in its district and may establish schools and provide for courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the administrative regulations of the Kentucky Board of Education. Each board shall have control and management of all school funds and all public school property of its district and may use its funds and property to promote public education. Each board shall exercise generally all powers prescribed by law in the administration of its public school system, appoint the superintendent of schools, and fix the compensation of employees.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations, and bylaws for its meetings and proceedings for the management of the schools and school property of the district, for the transaction of its business, and for the qualification and duties of employees and the conduct of pupils. The rules, regulations, and bylaws made by a board of education shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of a majority of the members of the board. The rules, regulations, and bylaws shall be spread on the minutes of the board and be open to the public.

(3) Local boards of education electing to enter into agreements pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300, with other local boards of education to establish consortia to provide services in accordance with the Kentucky Education Reform Act of 1990, 1990 Ky. Acts Ch. 476, may transfer real or personal property to the consortia without receiving fair market value compensation. The joint or cooperative action may employ employees transferred from employment of a local board of education, and the employees shall retain their eligibility for the Kentucky Teachers' Retirement System. The chief state school officer, under administrative regulations of the Kentucky Board of Education, may allot funding to an interlocal cooperative board created by two (2) or more local school districts pursuant to KRS

65.210 to 65.300 to provide educational services for the mutual advantage of the students in the representative districts. All statutes and administrative regulations that apply to the use of these funds in local school districts shall also apply to cooperative boards.

(4) A local board of education may confer upon a principal in its district the authority to enter into contractual agreements on behalf of the district for the provision of goods and services necessary for the effective management of the principal's school.

(a) A local board of education that confers this authority upon a principal shall:

1. Determine the amount of funds for each fiscal year available to a principal for entering into contractual agreements, within the regular district budget process; and

2. Develop polices governing:

a. The types of contracts a principal may enter into;

b. Limitations on the dollar amount of contracts; and

c. Reporting and accounting requirements for contracts.

(b) A local board of education may revoke a principal's authority to enter into contractual agreements at any time.

(c) A principal entering into contractual agreements shall submit a quarterly report to the school-based decision making council, if there is a council, and to the local board of education. The report shall detail:

1. The amount of funds made available by the local board of education for use by the principal;

2. The amount and purpose of contracts entered into by the principal;

3. The amount of funds generated as profit to the school as a result of contracts entered into by the principal; and

4. The amount and purpose of the expenditure of any profits generated by the contracts.

The Committee Substitute No. 1 to **HB 285** is as follows:

HB 285, AN ACT relating to school principals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.290 is amended to read as follows:

(1) Each board of education shall have general control and management of the public schools in its district and may establish schools and provide for courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the administrative regulations of the Kentucky Board of Education. Each board shall have control and management of all school funds and all public school property of its district and may use its funds and property to promote public education. Each board shall exercise generally all powers prescribed by law in the administration of its public school system, appoint the superintendent of schools, and fix the compensation of employees.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations, and bylaws for its meetings and proceedings for the management of the schools and school property of the district, for the transaction of its business, and for the qualification and duties of employees and the conduct of pupils. The rules, regulations, and bylaws made by a board of education shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of a majority of the members of the board. The rules, regulations, and bylaws shall be spread on the minutes of the board and be open to the public.

(3) Local boards of education electing to enter into agreements pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300, with other local boards of education to establish consortia to provide services in accordance with the Kentucky Education Reform Act of 1990, 1990 Ky. Acts Ch. 476, may transfer real or personal property to the consortia without receiving fair market value compensation. The joint or cooperative action may employ employees transferred from employment of a local board of education, and the employees shall retain their eligibility for the Kentucky Teachers' Retirement System. The chief state school officer, under administrative regulations of the Kentucky Board of Education, may allot funding to an interlocal cooperative board created by two (2) or more local school districts pursuant to KRS 65.210 to 65.300 to provide educational services for the mutual advantage of the students in the representative districts. All statutes and administrative regulations that apply to the use of these funds in local school districts shall also apply to cooperative boards.

(4) A local board of education, through the superintendent, may confer upon a principal in its district the authority to enter into contractual agreements on behalf of the district for the provision of goods and incidental services necessary for the effective management of the principal's school.

(a) A local board of education that confers this authority shall:

1. Determine the amount of funds for each fiscal year available to a principal for entering into contractual

agreements, within the regular district budget process; and

2. Develop polices governing:

a. The types of contracts a principal may enter into;

b. Limitations on the dollar amount of contracts; and

c. Reporting and accounting requirements for contracts.

(b) A local board of education may revoke a superintendent or principal's authority to enter into contractual agreements at any time.

(c) A principal entering into contractual agreements shall submit a quarterly report to the school-based decision making council, if there is a council, and to the superintendent and the local board of education. The report shall detail:

1. The amount of funds made available by the local board of education for use by the principal;

2. The amount and purpose of contracts entered into by the principal;

3. The amount of funds generated as profit to the school as a result of contracts entered into by the principal; and

4. The amount and purpose of the expenditure of any profits generated by the contracts.

HB 519, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of Sections 1 and 2 of this Act, "critical shortage area" means a lack of certified teachers in particular subject areas, in grade levels, or in geographic locations at the elementary and secondary level, as determined annually by the commissioner of education. The commissioner may use any source considered reliable including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas.

(2) The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under this section and Section 2 of this Act. The administrative regulations shall assure that:

(a) A retired teacher or administrator shall not be hired until the superintendent assures that he or she has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis; and

(b) A retired teacher or administrator shall be paid, at a minimum, a salary at Rank II with ten (10) years of experience based on a single salary schedule adopted by the district.

(3) In the event a local school district needs a person to fill a critical shortage position after reaching its quota established under Section 2 of this Act, the commissioner of education with the approval of the executive director of the Kentucky Teachers' Retirement System may allow the district to exceed its quota if the statewide quota has not been met.

Section 2. KRS 161.605 is amended to read as follows:

(1) Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities.

(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.

(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the one hundred (100) day limitation in this subsection. The board of trustees shall determine if employment in a nonteaching position qualifies for an exemption under this subsection.

(4) Members retired from an agency listed in KRS 161.220(4)(b) may be employed in a part-time teaching capacity by one (1) of the universities participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year.

(5) Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching

capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(6) When a retired member returns to employment as a part-time teacher or in a nonteaching capacity as provided in subsections (2), (3), and (4) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for nonuniversity and university members.

(7) The board of trustees shall provide for reemployment of retired members as full-time or part-time teachers or in a nonteaching capacity under the following conditions:

(a) A retired teacher or administrator may return to part-time or full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in Section 1 of this Act and for which the person is certified. Local school districts may employ during a school fiscal year up to a maximum of two (2) retired members or one percent (1%) of the total active members of the retirement system in the school district, whichever is greater, as full-time or part-time employees when the local school board certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas. Retired members shall be rehired on a one (1) year contract following an absence of at least sixty (60) days.

(b) Retired members reemployed under this subsection shall remain eligible to receive their retirement annuity.

(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of a district.

(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.

(e) Retirees that are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The reemployed retiree's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest shall be paid by lump sum or on a monthly straight life basis to the retiree. If the member dies prior to retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.

(f) The provisions of this subsection shall not be covered under KRS 161.714.

The Committee Substitute No. 1 to **HB 519** is as follows:

HB 519, AN ACT relating to teachers' retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of Sections 1 and 2 of this Act, "critical shortage area" means a lack of certified teachers in particular subject areas, in grade levels, or in geographic locations at the elementary and secondary level, as determined annually by the commissioner of education. The commissioner may use any source considered reliable including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas.

(2) The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under this section and Section 2 of this Act. The administrative regulations shall assure that:

(a) A retired teacher or administrator shall not be hired until the superintendent assures that he or she has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis; and

(b) A retired teacher or administrator shall be paid, at a minimum, a salary at Rank II with ten (10) years of experience based on a single salary schedule adopted by the district.

The commissioner of education shall report members reemployed under this section to the Kentucky Teachers' Retirement System.

(3) If a local school district needs a person to fill a critical shortage position after reaching its quota established under Section 2 of this Act, the commissioner of education with the approval of the executive director of the Kentucky

Teachers' Retirement System may allow the district to exceed its quota if the statewide quota has not been met.

Section 2. KRS 161.605 is amended to read as follows:

(1) Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities.

(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.

(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the one hundred (100) day limitation in this subsection. The board of trustees shall determine if employment in a nonteaching position qualifies for an exemption under this subsection.

(4) Members retired from an agency listed in KRS 161.220(4)(b) may be employed in a part-time teaching capacity by one (1) of the universities participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year.

(5) Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(6) When a retired member returns to employment as a part-time teacher or in a nonteaching capacity as provided in subsections (2), (3), and (4) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for nonuniversity and university members.

(7) The board of trustees shall provide for reemployment of retired members as full-time or part-time teachers or in a nonteaching capacity under the following conditions:

(a) A retired teacher or administrator may return to full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in Section 1 of this Act and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas, local school districts may employ, as full-time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.

(b) Retired members reemployed under this subsection shall remain eligible to receive their retirement annuity.

(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of a district.

(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.

(e) Retirees that are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The reemployed retiree's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest shall be paid by lump sum or on a monthly straight life basis to the retiree. If the member dies prior to retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.

(f) The provisions of this subsection shall not be covered under KRS 161.714.

HB 850, AN ACT relating to career and technical education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 4 of this Act,

(1) "Career and technical education" or "secondary vocational education," or "secondary vocational study" means a program of study that leads to the development of academic and specialized occupational skills in career fields;

(2) "Technical literacy" means a student's ability to read and comprehend the language of a field of study, understand the major technical concepts of that field, and apply the appropriate mathematics concepts to typical problems encountered in the workplace;

(3) "Secondary vocational education and area technology center" or "area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency;

(4) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The purposes of career and technical education or secondary vocational education shall be to :

(a) Provide students opportunities to increase academic skills in mathematics, science, English, and communications as well as technical literacy in work-based settings;

(b) Provide students a variety of opportunities to master the usage of technology;

(c) Prepare individuals with specialized, transferable, skills and technical skills for gainful employment in entry level positions in broad-based career fields; and

(d) Assist individuals in the process of preparing for successful transition from school to work, or to postsecondary education, or to the military.

(2) The General Assembly acknowledges that:

(a) Rigorous, high quality career and technical education offers students an opportunity to develop skills in mathematics, science, communication, problem-solving, and technical and vocational areas that are essential to meet the goals for Kentucky education as described in KRS 158.6451 and to help students achieve the capacities required of all students and defined in KRS 158.645;

(b) Students need access to programs that meet high standards and connect technical skills with core academic requirements for high school students;

(c) Students can accelerate their overall scholastic achievement when given an opportunity to learn in an integrated school- and work-based environment; and

(d) The General Assembly has a responsibility to provide the resources that recognize the increased costs for offering high quality, relevant technical programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) In order to ensure that high quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present day and future needs of Kentucky employers, the Kentucky Department of Education shall implement a comprehensive plan during the 2000-2002 biennium to:

(a) Review and revise the existing program standards promulgated in administrative regulations by the Kentucky Board of Education as authorized under KRS 151B.025(5) and (6) and KRS 156.070;

(b) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education;

(c) Establish a needs assessment process tied to specific criteria for assisting local school districts and the Department for Technical Education in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed;

(d) Examine the current processes for assessing need, planning, funding, equipping, and operating new facilities. The examination shall look at the consistency of state policy in the overall development of programs and facilities to serve students in local school districts and to ensure equity of opportunity for school districts in the funding of new facilities; and

(e) Make recommendations to the Interim Joint Committee on Education prior to the regular session of the 2002 General Assembly relating to paragraphs (a) to (d) of this subsection.

(2) The Department of Education shall involve representatives from local school districts, the Department for Technical Education, the Kentucky Community and Technical College System, business and industry, colleges and universities, the School Facilities Construction Commission, and other appropriate agencies in carrying out the requirements of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) During the 2000-2001 school year and annually thereafter, the Kentucky Department of Education with involvement of representatives from the Department for Technical Education, local school districts, and teacher preparation institutions shall complete a statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.

(2) The 2000-2001 analysis shall include the 1999-2000 results from the Commonwealth Accountability and Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, manufacturing, and by special populations. Where available, disaggregated data from other national assessments shall also be used.

(3) (a) The Kentucky Department of Education shall coordinate the development of a state-wide assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:

1. The academic course-taking patterns of the technical students;

2. The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;

3. The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally-operated centers;

4. The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;

5. The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;

6. The level of curricula alignment;

7. The availability of extra help for students in meeting higher standards;

8. The availability and adequacy of school counseling; and

9. The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.

(b) The department, in cooperation with the Department for Technical Education, teacher preparation programs, postsecondary education institutions, and business and industry shall continue to develop occupational skill standards and assessments, but, in all cases, shall ensure that academic core content is imbedded or integrated within the performance requirements for students.

(c) The department shall encourage postsecondary education and business and industry to make available professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.

SECTION 5. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Career and technical education" or "secondary vocational education," or "secondary vocational study" means a program of study that leads to the development of academic and specialized occupational skills in career fields;

(b) "Secondary vocational education and area technology center" or "area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency;

(c) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

(2) During the 2000-2002 biennium, the Kentucky Department of Education shall use a weighted formula to distribute all

general funds designated for locally-operated secondary area centers and vocational departments. The formula shall take into account the differences in cost of operating specific programs. The department shall categorize programs into three (3) categories:

(a) Category III: Programs that provide technical skill development focused on specific occupational areas that require high cost equipment, materials, and facilities;

(b) Category II: Programs that provide technical skill development focused on major occupational areas and require technical equipment, but for which high cost equipment, facilities, or materials are not necessary to operate the programs; and

(c) Category I: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and that develop some exploratory or hands-on skills used in the industry.

(3) For calculation purposes and after categorizing the programs as described in subsection (1) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence Fund program, which shall be applied to full time equivalent students. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period, divided by six (6).

(a) Category I programs shall receive no weight;

(b) Category II programs shall receive seventy percent (70%) of the base per full-time equivalent student; and

(c) Category III programs shall receive one hundred and forty percent (140%) of the base per full-time equivalent student.

If application of the formula results in a decrease in total general funds for a specific area center or vocational department from the 1999-2000 funds allocation, the amount of decrease in funds shall be phased in over a four (4) year period, beginning with fiscal year 2000-2001, unless the programs and full-time equivalent students in subsequent years generate funds equal to or in excess of the 1999-2000 allocation.

(4) If funds appropriated for locally-operated area centers and vocational departments for the biennium are insufficient to use the formula percentage weights described in subsection (2) of this section, the percentages will be proportionately decreased for Categories III and II programs described in subsection (1) of this section.

(5) During the 2000-2002 biennium the department shall review the adequacy of the funding formula for the locally-operated area centers described in subsections (1) and (2) of this section and use information from the review to devise a weighted funding formula to be used for all secondary career and technical programs, regardless of whether the program is located in a comprehensive high school, locally-operated area center, or state-operated facility. The department shall involve representatives from all providers of secondary career and technical education in the discussion. The department shall present the revised formula and recommendations to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue prior to the 2002 Regular Session of the General Assembly. The purpose of the formula shall be to provide a long-range solution to current funding inequities between state-operated programs and local school district programs by applying the same funding levels and funding mechanism for like programs in comprehensive high schools, locally-operated area centers, and state-operated centers.

Section 6. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the

previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) ***Effective for school year, 2000-2001, a deduction using a factor of fifteen percent (15%) shall be applied against the base funding level for each pupil in average daily attendance in those instances where a pupil spends a portion of the school day at a state-operated technical facility. Effective for school year, 2001-2002, and subsequent years, there shall be no deduction for pupils attending a state-operated facility.***~~[For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.]~~

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 7. The General Assembly recognizes that in selected technical fields it is appropriate and necessary that persons become teachers based on demonstrated occupational and technical skills gained through work experience, rather than through initial college preparation. However with increased requirements for strong academic skills, the Education Professional Standards Board shall identify a work group by September 15, 2000, composed of representatives from the Kentucky Department of Education, the University Coordinating Committee that represents universities with technical education teacher preparation programs, the Department for Technical Education, the Kentucky Community and Technical College System, teachers, and administrators to review the current requirements for teachers in technical fields whose entry into teaching does not require a bachelor's degree. The work group shall review the current certification renewal processes, professional development and continuing education requirements, the required sequence of course-taking patterns and make recommendations to the Education Professional Standards Board for revising the current certification requirements for those persons entering teaching, after July 1, 2001, if it is determined changes shall be in the best interests of students.

Section 8. Whereas, teachers of secondary students in state-operated facilities contribute to the success or failure of secondary students from local high schools and they are currently not included in the rewards and sanctions for schools under KRS 158.6455, The Kentucky Board of Education in cooperation with State Board for Adult and Technical Education shall make recommendations to the Interim Joint Committee on Education for a system of accountability for state-operated programs prior to the 2002 Regular Session of the General Assembly.

The Committee Substitute No. 1 to **HB 850** is as follows:

HB 850, AN ACT relating to career and technical education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 4 of this Act,

(1) "Career and technical education" or "secondary vocational education," or "secondary vocational study" means a program of study that leads to the development of academic and specialized occupational skills in career fields;

(2) "Technical literacy" means a student's ability to read and comprehend the language of a field of study, understand the major technical concepts of that field, and apply the appropriate mathematics concepts to typical problems encountered in the workplace;

(3) "Secondary vocational education and area technology center" or "area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated;

(4) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The purposes of elementary and secondary education preparation programs of career and technical education and secondary vocational education shall be to :

(a) Provide students opportunities to increase academic skills in mathematics, science, English, and communications as well as technical literacy in work-based settings;

(b) Provide students a variety of opportunities to master the usage of technology;

(c) Prepare individuals with specialized, transferable, skills and technical skills for gainful employment in entry level positions in broad-based career fields; and

(d) Assist individuals in the process of preparing for successful transition from school to work, or to postsecondary education, or to the military.

(2) The General Assembly acknowledges that:

(a) Rigorous, high quality career and technical education offers students an opportunity to develop skills in mathematics, science, communication, problem-solving, and technical and vocational areas that are essential to meet the goals for Kentucky education as described in KRS 158.6451 and to help students achieve the capacities required of all students and defined in KRS 158.645;

(b) Students need access to programs that meet high standards and connect technical skills with core academic requirements for high school students;

(c) Students can accelerate their overall scholastic achievement when given an opportunity to learn in an integrated school- and work-based environment; and

(d) The General Assembly has a responsibility to provide the resources that recognize the increased costs for offering high quality, relevant technical programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) In order to ensure that high quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present day and future needs of Kentucky employers, the Kentucky Department of Education and the Department for Technical Education shall jointly implement a comprehensive plan during the 2000-2002 biennium to:

(a) Review and revise as needed the existing program standards promulgated in administrative regulations by the Kentucky Board of Education as authorized under KRS 151B.025(5) and (6) and KRS 156.070;

(b) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical supplement to the Kentucky program of studies and published by the Kentucky Department of Education;

(c) Establish a needs assessment process tied to specific criteria for assisting all providers of programs in determining if the current programs offered in their respective facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed; and

(d) Make a report to the Interim Joint Committee on Education prior to the regular session of the 2002 General Assembly relating to paragraphs (a) to (c) of this subsection.

(2) Representatives from local school districts, the Kentucky Community and Technical College System, business and industry, colleges and universities, and other appropriate agencies shall be consulted in carrying out the requirements of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) During the 2000-2001 school year and annually thereafter, the Kentucky Department of Education and the Department for Technical Education with involvement of representatives from the local school districts and teacher preparation institutions shall jointly complete a statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.

(2) The 2000-2001 analysis shall include the 1999-2000 results from the Commonwealth Accountability and Testing System. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, manufacturing, and by special populations. Where available, disaggregated data from other national assessments shall also be used.

(3) (a) The Kentucky Department of Education with assistance from the Department for Technical Education shall coordinate the development of a state-wide assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including, but not limited to:

1. *The academic course-taking patterns of the technical students;*
2. *The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;*
3. *The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally-operated centers;*
4. *The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;*
5. *The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;*
6. *The level of curricula alignment and articulation in grades eight (8) to sixteen (16);*
7. *The availability of extra help for students in meeting higher standards;*
8. *The availability and adequacy of school counseling;*
9. *The availability and adequacy of work-based learning;*
10. *The availability and adequacy of distance learning and educational technology;*
11. *The adequacy of involvement of business and industry in curricula, work-based learning and program development; and*
12. *The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.*

(b) The Department of Education and the Department for Technical Education in cooperation with teacher preparation programs, universities, and other appropriate partners, shall ensure that academic core content is imbedded or integrated within performance requirements for students.

(c) The departments in cooperation with the Kentucky Community and Technical College System shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.

(d) The departments shall continue efforts with business and industry to develop occupational skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.

SECTION 5. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Career and technical education" or "secondary vocational education," or "secondary vocational study" means a program of study that leads to the development of academic and specialized occupational skills in career fields;

(b) "Secondary vocational education and area technology center" or "area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency;

(c) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.

(2) During the 2000-2002 biennium, the Kentucky Department of Education shall use a weighted formula to distribute all general funds designated in the biennial budget for locally-operated secondary area centers and vocational departments. The formula shall take into account the differences in cost of operating specific programs. The department shall categorize programs into three (3) categories:

(a) Category III: Programs that provide technical skill development focused on specific occupational areas, including selected Level III industrial technology programs and programs in other occupational areas that require high cost equipment, materials, and facilities;

(b) Category II: Programs that provide technical skill development focused on specific occupational areas, including selected Level III industrial technology programs and programs in other occupational areas that require technical equipment, but for which high cost equipment, facilities, or materials are not necessary to operate the programs.

(c) Category I: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and that develop some exploratory or hands-on skills used in the industry.

(3) For calculation purposes and after categorizing the programs as described in subsection (1) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence Fund program, which shall be applied to full time equivalent students. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period, divided by six (6).

(a) Category I programs shall receive no weight; and

(b) Category II programs and Category III programs shall receive proportional weights in the formula with Category III being greatest.

(4) The Kentucky Board of Education shall amend its existing administrative regulation for distributing funds to districts that operate local area centers and vocational departments by establishing a weighted formula as described in subsections (2) and (3) of this section.

(a) The Kentucky Department of Education and the Department for Technical Education shall mutually agree upon a classification of programs to be assigned to Categories II and III for funding purposes and based on the descriptions found in subsection (2) of this section. The classifications as recommended by the departments shall be considered by the state board in developing the weighted formula and shall be incorporated by reference.

(b) If the funding formula results in a reduction of funds from the 1999-2000 allocation for a center or department that has maintained the same number and category of programs and equivalent number of students, the affected center shall not receive less than seventy percent (70%) of its 1999-2000 allocation.

(c) The weighted formula shall govern the distribution of funds for the 2000-2002 biennium only pending further study and review as described in Section 7 of this Act.

Section 6. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily

attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) ***Effective for school year, 2000-2001, a deduction using a factor of fifteen percent (15%) shall be applied against the base funding level for each pupil in average daily attendance in those instances where a pupil spends a portion of the school day at a state-operated technical facility. Effective for school year, 2001-2002, and subsequent years, there shall be no deduction for pupils attending a state-operated facility.***~~[For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.]~~

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 7. (1) During the 2000-2002 biennium a special committee to be appointed by the Legislative Research Commission, composed of six (6) members of the Interim Joint Committee on Education and six (6) members of the Interim Joint Committee on Appropriations and Revenue and composed of an equal number of Senate and House of Representative members, shall study the adequacy of the funding formula related to subsections (2) and (3) of Section 5 of this Act for locally-operated centers and departments and shall consider a variety of funding methodologies to be used to provide adequate and equitable funding for secondary career and technical education programs in local school districts and state-operated centers.

(2) The committee shall also examine the current processes for assessing need, planning, funding, equipping, and operating new facilities. The examination shall look at the consistency of state policy in the overall development of programs and facilities to serve students in local school districts and communities and to ensure equity of opportunity for school districts and communities in the funding of new facilities.

(3) The study shall seek input from representatives from local school districts, state agencies, and the private and public sectors as appropriate, and utilize consultants as needed.

(4) The committee shall make recommendations to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue by September 1, 2001.

Section 8. The General Assembly recognizes that in selected technical fields it is appropriate and necessary that persons become teachers based on demonstrated occupational and technical skills gained through work experience, rather than through initial college preparation. However with increased requirements for strong academic skills, the Education Professional Standards Board shall identify a work group by September 15, 2000, composed of representatives from the Kentucky Department of Education, the University Coordinating Committee that represents universities with technical education teacher preparation programs, the Department for Technical Education, the Kentucky Community and Technical College System, teachers, and administrators to review the current requirements for teachers in technical fields whose entry into teaching does not require a bachelor's degree. The work group shall review the current certification renewal processes, professional development and continuing education requirements, the required sequence of course-taking patterns and make recommendations to the Education Professional Standards Board for revising the current certification requirements for those persons entering teaching, after July 1, 2001, if it is determined changes shall be in the best interests of students.

Section 9. Whereas, teachers of secondary students in state-operated facilities contribute to the success or failure of secondary students from local high schools and they are currently not included in the rewards and sanctions for schools under KRS 158.6455, The Kentucky Board of Education in cooperation with State Board for Adult and Technical Education shall make recommendations to the Interim Joint Committee on Education for a system of accountability for state-operated programs prior to the 2002 Regular Session of the General Assembly.

HB 873, AN ACT relating to secondary vocational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "cooperative education" means a secondary school educational program consisting of in-school instruction alternating with on-the-job work experience in a business or industrial establishment, supervised by the school and employer to ensure that each phase contributes to the student's educational and career objectives.

(2) The Kentucky Board of Education, in consultation and cooperation with the Department for Technical Education in the Cabinet for Workforce Development, shall promulgate administrative regulations to establish standards for cooperative education programs provided by school districts, secondary area vocational education and technology centers, or other education entities. The standards for cooperative education programs shall include, but not be limited to, the following:

(a) A student shall be enrolled in a related preparatory educational subject;

(b) A student shall have successfully completed the basic skills prerequisites required by the preparatory program he or she is pursuing, and gained sufficient knowledge and skills necessary for success in a cooperative education program;

(c) The cooperative education program shall be an integral part of the school's program of studies and be described in the school catalog;

(d) The work experience component of the program shall supplement the planned program of in-school instruction;

(e) A student may receive course credit only for work experience directly related to the student's individual graduation plan and approvable under the Program of Studies for Kentucky Schools;

(f) A student shall be permitted to be excused from school attendance only for the purpose of participating in an approved cooperative education program activity. If a student is working with a participating employer at a time other than during the regular school day, the student shall not be excused from school attendance during the regular school day;

(g) The school shall arrange and coordinate with the employer for on-the-job training, and a training plan

agreement signed by the school, student, parent, and employer shall be placed on file with the school;

(h) A student shall receive a salary for the work experience phase of instruction in accordance with local, state, and federal minimum wage requirements;

(i) Requirements for cooperative education teacher coordinators;

(j) Age requirements for students; and

(k) The program shall include an evaluation component to assess the effectiveness of the program in assisting students in the achievement of their educational and career goals.

HCR 127, A CONCURRENT RESOLUTION creating the Task Force on School Finance.

WHEREAS, in 1989, the Kentucky Supreme Court found that the Commonwealth had not provided an equitable system of public schools as required by the Kentucky Constitution; and

WHEREAS, in 1990, the Kentucky General Assembly responded by creating the Support Education Excellence in Kentucky (SEEK) funding formula with the goal of providing an equitable and adequate system among the 176 school districts of the Commonwealth; and

WHEREAS, the SEEK formula has been in place for ten years with very few adjustments; and

WHEREAS, there is evidence that the SEEK formula allows some districts to benefit and other districts to be penalized because the permissive taxes are counted in the equivalent tax rate, but are not considered in determining the wealth of districts for purposes of calculating the percentage of local and state contributions toward the base SEEK and Tier I programs; and

WHEREAS, equity is lost because many districts receive federal funds for at-risk students and some receive federal reimbursement for state taxes lost because of federal installations; and

WHEREAS, it is time for a public review of the SEEK formula to determine whether it is meeting its original goals and to assess whether it needs to be adjusted to assure that equity is being provided in all districts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby established for the 2000-2002 biennium a Task Force on School Finance to analyze the SEEK formula and other school funding issues to determine if an equitable and adequate system of education is being provided in all 176 public school districts. Its membership shall include:

(1) Six (6) Senate members appointed by the President of the Senate;

(2) Six (6) House of Representatives members appointed by the Speaker of the House; and

(3) Six (6) members appointed by the Governor that shall include at least three (3) practicing educators.

The co-chairs shall be named by the Legislative Research Commission.

Section 2. The Task Force on School Finance shall be authorized to contract for consultant services, but the primary consultant shall have no prior history with the development or implementation of the SEEK formula. Staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 3. The Task Force on School Finance shall report its findings and recommendations to the Governor and the Legislative Research Commission no later than September 1, 2001.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the identified issues to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute No. 1 to **HCR 127** is as follows:

HCR 127, A CONCURRENT RESOLUTION creating the Task Force on School Finance.

WHEREAS, in 1989, the Kentucky Supreme Court found that the Commonwealth had not provided an equitable system of public schools as required by the Kentucky Constitution; and

WHEREAS, in 1990, the Kentucky General Assembly responded by creating the Support Education Excellence in Kentucky (SEEK) funding formula with the goal of providing an equitable and adequate system among the 176 school districts of the Commonwealth; and

WHEREAS, the SEEK formula has been in place for ten years with very few adjustments; and

WHEREAS, there is evidence that the SEEK formula allows some districts to benefit and other districts to be penalized because the permissive taxes are counted in the equivalent tax rate, but are not considered in determining the wealth of districts for purposes of calculating the percentage of local and state contributions toward the base SEEK and Tier I programs; and

WHEREAS, equity is lost because many districts receive federal funds for at-risk students and some receive federal reimbursement for state taxes lost because of federal installations; and

WHEREAS, it is time for a public review of the SEEK formula to determine whether it is meeting its original goals and to assess whether it needs to be adjusted to assure that equity is being provided in all districts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education is hereby directed during the 2000-2002 biennium to analyze the SEEK formula and other school funding issues to determine if an equitable and adequate system of education is being provided in all 176 public school districts.

Section 2. The Interim Joint Committee on Education shall be authorized to contract for consultant services, but the primary consultant shall have no prior history with the development or implementation of the SEEK formula. Staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 3. The Interim Joint Committee on Education shall report its findings and recommendations to the Legislative Research Commission no later than September 1, 2001.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the identified issues to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HJR 141, A JOINT RESOLUTION directing Kentucky's four-year public universities to establish a competitive Eagle Scout Scholarship program modeled after the successful University of Louisville program.

WHEREAS, young men who earn Eagle Scout rank have performed many hours of leadership and service to others and other organizations outside the Boy Scouts; and

WHEREAS, the Eagle Scout rank is awarded to those individuals who demonstrate persistence, and who have demonstrated high principles and character; and

WHEREAS, the Eagle Scout rank is recognition of outstanding performance and achievement in a variety of areas; and

WHEREAS, only a small percentage of Boy Scouts earn the rank of Eagle Scout annually; and

WHEREAS, the Commonwealth of Kentucky needs to retain its brightest and most talented students in its public institutions;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky's four-year public universities are directed to establish a competitive Eagle Scout Scholarship program modeled after the successful University of Louisville Scholarship program which rewards Eagle Scouts who achieve high ACT scores.

Section 2. One (1) year from the adoption date of this Resolution, the presidents of Kentucky's four-year public universities or their designees shall make a report to the Interim Joint Committee on Education on the progress made toward designating at least one academic scholarship for a high-achieving Eagle Scout Scholarship.

Section 3. The Clerk of the House is directed to transmit a copy of this Resolution to the presidents of the Kentucky four-year public universities.

The Committee Substitute No. 1 to **HJR 141** is as follows:

HJR 141, A JOINT RESOLUTION directing Kentucky's four-year public universities establish a competitive Eagle Scout Scholarship program modeled after the successful University of Louisville program.

WHEREAS, young men who earn Eagle Scout rank have performed many hours of leadership and service to others and other organizations outside the Boy Scouts; and

WHEREAS, the Eagle Scout rank is awarded to those individuals who demonstrate persistence, and who have demonstrated high principles and character; and

WHEREAS, the Eagle Scout rank is recognition of outstanding performance and achievement in a variety of areas; and

WHEREAS, only a small percentage of Boy Scouts earn the rank of Eagle Scout annually; and

WHEREAS, the Commonwealth of Kentucky needs to retain its brightest and most talented students in its public institutions;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly recommends that Kentucky's four-year public universities establish at least one (1) permanent and continuing competitive Eagle Scout Scholarship program modeled after the successful University of Louisville Scholarship program which rewards Eagle Scouts who achieve:

(1) High ACT scores; and

(2) A grade point average of at least 3.0 during high school; and who have during high school;

  (a) Remained active in a Scout Troop, Explorer Post, or Venture Unit; or

  (b) Remained active in the Civil Air Patrol; or

  (c) Have earned Eagle Palms of the Scout Program or the Mitchell Award of the Civil Air Patrol.

Section 2. Up to fifty percent (50%) of the scholarships shall be made available to qualifying African-American youths.

Section 3. One (1) year from the adoption date of this Resolution, the presidents of Kentucky's four-year public universities or their designees shall make a report to the Interim Joint Committee on Education on the progress made toward designating at least one academic scholarship for a high-achieving Eagle Scout Scholarship.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the presidents of the Kentucky four-year public universities.

The Committee on Appropriations and Revenue reported **HB 25, HB 258, HB 324,** with Committee Substitute attached thereto, **HB 390**, with Committee Substitutes attached thereto, **HB 437,** with Committee Substitute and Committee Amendments attached thereto, **HB 554, HB 571,** and **HB 640,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 390** is as follows:

HB 390, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

(1) (a)"Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

  1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

  2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in Sections 12, 13, and 14 of this Act;

(6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile

medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and for purposes of Sections 1 to 17 of this Act includes short-term coverage policies.

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under Sections 12, 13, and 14 of this Act. An independent review entity which is accredited by the National Commission on Quality Assurance, the American Accreditation Health Care Commission, or another nationally recognized accreditation organization as identified by the department shall be deemed certified by the department;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance origination; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in Section 9 of this Act, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(11) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;

(12) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;

(13) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria.

(14) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review.

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(16) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review.

(17) "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17 of this Act shall apply to any insurer that covers citizens of the Commonwealth under a health benefit plan. An insurer shall maintain written procedures for:

(1) Determining whether a requested service, treatment, drug, or device is covered under the terms of a covered person's health benefit plan;

(2) Making utilization review determinations; and

(3) Notifying covered persons, authorized persons, and providers acting on behalf of covered persons of its determinations.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1, 2, 3, 4, 5, 6, 7, and 8 of this Act set forth the requirements and procedures regarding utilization review and shall apply to:

(a) Any insurer or its private review agent that provides or performs utilization review in connection with a health benefit plan; and

(b) Any private review agent that performs utilization review functions on behalf of any person providing or administering health benefit plans.

(2) Where an insurer or its agent provides or performs utilization review, and in all instances where internal appeals as set

forth in Section 9 of this Act, are involved, the insurer or its agent shall be responsible for:

(a) Monitoring all utilization reviews and internal appeals carried out by or on behalf of the insurer;

(b) Ensuring that all requirements of Sections 1 to 17 of this Act are met;

(c) Ensuring that all administrative regulations promulgated in accordance with Sections 5, 7, and 15 of this Act are complied with; and

(d) Ensuring that appropriate personnel have operational responsibility for the performance of the insurer's utilization review plan.

(3) A private review agent that operates solely under contract with the federal government for utilization review or patients eligible for hospital services under Title XVIII of the Social Security Act shall not be subject to the registration requirements set forth in Sections 4, 5, and 7 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer or private review agent shall not provide or perform utilization reviews without being registered with the department. A registered insurer or private review agent shall:

(a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons supported by licensed physicians with access to consultation with other appropriate physicians to carry out its utilization review activities;

(b) Ensure that only licensed physicians shall:

1. Make a utilization review decision to deny, reduce, limit, or terminate a health care benefit or to deny, or reduce payment for a health care service because that service is not medically necessary, experimental, or investigational except in the case of a health care service rendered by a chiropractor or optometrist where the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky; and

2. Supervise qualified personnel conducting case reviews;

(c) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to assure the adequate review of medical and surgical specialty and subspecialty cases;

(d) Not disclose or publish individual medical records or any other confidential medical information in the performance of utilization review activities except as provided in the Health Insurance Portability and Accountability Act Subtitle F sec. 261-264 and 45 C.F.R. sections 160 to 164 and other applicable laws and administrative regulations;

(e) Provide a toll free telephone line for covered persons, authorized persons, and providers to contact the insurer or private review agent and be accessible to covered persons, authorized persons, and providers for forty (40) hours a week during normal business hours in this state;

(f) Be available twenty-four (24) hours a day, seven (7) days a week to conduct:

1. Preadmission review of an emergency admission, if preauthorization is required for emergency admissions or use of an emergency room;

2. Preauthorization of weekend admissions to a hospital, or to review services delivered on the weekend or after normal business hours, if the covered person is subject to preauthorization on weekends or after normal business hours; and

3. Review of a patient's continued hospitalization, if a prior authorization will expire on a weekend;

(g) Provide decisions to covered persons, authorized persons, and all providers on appeals of adverse determinations and coverage denials of the insurer or private review agent, in accordance with this section and administrative regulations promulgated in accordance with Section 5 of this Act;

(h) Provide a utilization review decision:

1. Within twenty-four (24) hours of a request for:

a. Preadmission review of a hospital admission, unless additional information is needed;

b. Preauthorization of treatment when the covered person is already hospitalized; or

c. Retrospective review of an emergency hospital admission;

2. Within two (2) business days of a receipt of a request for preauthorization for a treatment, procedure, drug, or device;

3. Within twenty-four (24) hours of receipt of a request for review of a covered person's continued hospital stay and prior to the time when a previous authorization for hospital care will expire; and

4. Within twenty (20) business days of the receipt of requested medical information when the insurer or *private review agent has initiated a retrospective review;*

(i) Provide written notice of review decisions to the covered person, authorized person, and providers. An insurer or agent that denies coverage or reduces payment for a treatment, procedure, drug, or device shall include in the written notice:

    1. A statement of the specific medical and scientific reasons for denial or reduction of payment;

    2. The name, state of licensure, medical license number, and the title of the reviewer making the decision;

    3. A description of other alternative treatments, services, or supplies covered by the health benefit plan; and

    4. Instructions for initiating or complying with the insurer's internal appeal procedure, as set forth in Section 9 of this Act, stating, at a minimum, whether the appeal shall be in writing, time limitations, or schedules for filing appeals, and the name and phone number of a contact person who can provide additional information;

(j) Afford participating physicians an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and afford other participating providers an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice; and

(k) Comply with its own policies and procedures on file with the department.

(2) The insurer's failure to make a determination and provide written notice within the time frames set forth in this section shall be deemed to be an adverse determination by the insurer for the purpose of initiating an internal appeal as set forth in Section 9 of this Act. This provision shall not apply where the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the insurer's control.

(3) An insurer or private review agent shall submit a copy of any changes to its utilization review policies or procedures to the department. No change to policies and procedures shall be effective until thirty (30) days after it has been filed with and approved by the commissioner.

(4) A private review agent shall provide to the department the names of the entities for which the private review agent is performing utilization review in this state. Notice shall be provided within thirty (30) days of any change.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate emergency administrative regulations regarding utilization review and internal review, including the specification of information required of insurers and private review agents which shall, at a minimum, include:

(1) A utilization review plan that includes information utilized for conducting preadmission, admission, readmission review, preauthorization, continued stay authorization, and retrospective review that, for each type of review, includes:

(a) Utilization review policies and procedures to evaluate proposed or delivered medical services;

(b) Time frames for review;

(c) A written summary describing the review process and required forms;

(d) Documentation of qualifications of personnel who developed the specific utilization review procedures relating to specialty and subspecialty areas;

(e) Descriptions and names of review criteria upon which utilization review decisions are based; and

(f) Additional standards, if any, for the consideration of special circumstances.

(2) The type and qualifications of the personnel either employed or under contract to perform utilization review;

(3) Assurance that a toll-free line will be provided that covered persons, authorized persons, and providers may use to contact the insurer or private review agent;

(4) The policies and procedures to ensure that a representative of the insurer or private review agent shall be reasonably accessible to covered persons, authorized persons, and providers at least forty (40) hours per week during normal business hours;

(5) The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

(6) A copy of the materials designed to inform covered persons, authorized persons, and providers of the toll-free number and the requirements of the utilization review plan;

(7) A list of the entities for which the private review agent is performing utilization review in this state; and

(8) Evidence of compliance or the ability to comply with the requirements and procedures established regarding utilization review and the administrative regulations promulgated thereunder.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

A utilization review decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer or its designee for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person, authorized person, or the provider.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall, through the promulgation of emergency administrative regulations, develop a process:

(a) For the review of applications for registration of insurers or private review agents seeking to conduct utilization reviews;

(b) For the review of applications for insurers or private review agents seeking registration renewal to continue as a utilization review entity;

(c) Ensuring that no registration shall be approved unless the commissioner has documentation or findings that all applicants seeking registration or renewal to conduct utilization review are in compliance with the requirements and procedures established regarding utilization review, and as to renewals, have complied with Sections 1 to 17 of this Act and administrative regulations promulgated to enforce and to administer Sections 1 to 17 of this Act; and

(d) Establishing fees for applications and renewals in an amount sufficient to pay the administrative costs associated with carrying out the provisions of Sections 1, 2, 3, 4, 5, 6, 7, and 8 of this Act.

(2) The registration issued in accordance with this section expires on the second anniversary of the effective date unless it is renewed.

(3) The registration issued under this section is not transferable.

(4) The commissioner may revoke or suspend the utilization review registration of any insurer or private review agent who does not comply with the requirements and procedures established regarding utilization review or any administrative regulations promulgated thereunder.

(5) The department shall establish reporting requirements to:

(a) Evaluate the effectiveness of insurers and private review agents; and

(b) Determine if the utilization review plans are in compliance with the requirements and procedures established regarding utilization review and applicable administrative regulations.

(6) Upon request of any provider, authorized person, or covered person whose care is subject to review, the department shall provide copies of policies or procedures of any insurer or private review agent that has been issued a registration by the department to conduct review in this state.

(7) Notwithstanding any provision to the contrary, an insurer or private review agent registered and in good standing under the provisions of KRS 211.461 to 211.466, prior to the effective date of this Act, shall be deemed in compliance with requirements and procedures established in Sections 1 to 17 of this Act regarding utilization review and registered accordingly.

(8) Upon receipt of written complaints from covered persons, authorized persons, or providers stating that an insurer or a private review agent has failed to perform a review in accordance with the utilization review plan or the requirements and procedures established regarding utilization review, or administrative regulations promulgated thereunder, the commissioner shall:

(a) Send a copy of the complaint to the insurer or the private review agent within ten (10) days of receipt of the complaint, and require that any written reply be sent to the commissioner within ten (10) days; and

(b) Review the complaint and any written reply received from the insurer or private review agent within the time frames set forth in paragraph (a) of this subsection and make a recommendation to the insurer or private review agent and the covered person, authorized person, or provider.

(9) The commissioner shall consider complaints before issuing or renewing any registration or renewal of a registration to an insurer or a private review agent.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer or any other person providing or administering a health benefit plan shall deny or reduce payment for a service, procedure, treatment, drug or device covered under the covered person's health benefit plan if:

(a) The covered person's provider, during normal business hours, contacts the insurer, the designee, or agent on the day the covered person is expected to be discharged, in order to request review of the covered person's continued hospitalization, and the insurer, designee, or agent fails to provide a timely utilization review decision as required by Section 4 of this Act; or

(b) The covered person's provider makes at least three (3) documented attempts during a four (4) consecutive hour period to contact the insurer, designee, or agent, during normal business hours in order to request review of a continued hospital stay, preauthorization of treatment for a covered person who is already hospitalized, or retrospective review of an emergency hospital admission where the covered person remains hospitalized at the time the review requested is made, and the insurer, designee, or private review agent fails to be accessible as required by Section 4 of this Act.

(2) The insurer's liability to pay for the covered person's hospitalization under the circumstances set forth in subsection (1) of this section shall extend until the insurer, designee, or private review agent issues a utilization review decision applicable to requests for review relating to matters as set forth in subsection 1(b) of this section.

(3) The insurer's liability to pay under this section shall be conditioned on :

(a) The provider establishing verifiable documentation of the contact with, and subsequent failure of the insurer, designee, or agent to make the utilization review decision as set forth in subsection (1)(a) of this section; or

(b) The provider establishing verifiable documentation of the attempt to make contact with the insurer, designee, or agent as addressed in subsection (1)(b) of this section.

(4) In either instance, the contact, or attempts to contact, as set forth in this section, shall be made by the means required by the insurer, designee, or agent for requesting utilization review.

(5) This section applies only when the request for review concerns covered health benefits and it shall not supersede any limitations or exclusions in the covered person's health benefit plan. This section shall not apply if, in requesting a review, the provider does not furnish the information requested by the insurer or agent to make a utilization review decision, or if actions by the provider impede an insurer's or private review agent's ability to issue a utilization review decision.

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer shall have an internal appeal process to be utilized by the insurer or its designee, consistent with this section and Section 10 of this Act and which shall be disclosed to covered persons in accordance with subsection (1)(g) of Section 27 of this Act. An insurer shall disclose the availability of the internal review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial which meets the requirements set forth in subsection (1)(i) of Section 4 of this Act. For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan. Where a coverage denial is involved, in addition to stating the reason for the coverage denial, the required notice shall contain instructions for filing a request for review by the department.

(2) The internal appeals process may be initiated by the covered person, an authorized person, or a provider acting on behalf of the covered person. The internal appeals process shall include adequate and reasonable procedures for review and resolution of appeals concerning adverse determinations made under utilization review and of coverage denials, including procedures for reviewing appeals from covered persons whose medical conditions require expedited review. At a minimum, these procedures shall include the following:

(a) Insurers or their designees shall provide decisions to covered persons, authorized persons, and providers on internal appeals of adverse determinations or coverage denials within thirty (30) days of receipt of the request for internal appeal;

(b) Insurers or their designees shall render a decision not later than three (3) business days after the request for an expedited appeal of either an adverse determination or a coverage denial. An expedited appeal is deemed necessary when a covered person is hospitalized or, in the opinion of the treating provider, review under a standard time frame could, in the absence of immediate medical attention, result in any of the following:

1. Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person or the unborn child in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of a bodily organ or part;

(c) Internal appeal of an adverse determination shall only be conducted by a licensed physician who did not participate in the initial review and denial. However, in the case of a review involving a medical or surgical specialty or subspecialty, the insurer or agent shall, upon request by a covered person, authorized person, or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the internal appeal;

(d) Those portions of the medical record that are relevant to the internal appeal, if authorized by the covered person and in accordance with state or federal law, shall be considered and providers given the opportunity to present additional information;

(e) To facilitate expeditious handling of an appeal of an adverse determination or a coverage denial, an insurer or

agent that denies, limits, reduces, or terminates coverage for a treatment, procedure, drug, or device for a covered person shall provide the person undertaking an appeal with a denial letter that shall include:

1. A statement of the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

2. The name, state of licensure, medical license number, and the title of the person making the decision;

3. A description of other alternative treatments, services, or supplies covered by the health benefit plan, if any; and

4. Instructions for initiating an internal appeal of the adverse determination, or filing a request for review with the department where a coverage denial is upheld by the insurer on internal appeal.

(3) The department shall establish and maintain a system for receiving and reviewing requests for review of coverage denials from covered persons, authorized persons, and providers. For purposes of this subsection "coverage denials" shall not include an adverse determination as defined in Section 1 of this Act or subsequent denials arising from an adverse determination.

(a) On receipt of a written request for review of a coverage denial from a covered person, authorized person, or provider, the department shall notify the insurer which issued the denial of the request for review and shall call for the insurer to respond to the department regarding the request for review within five (5) days receipt of notice to the insurer;

(b) Within five (5) days of receiving the notice of the request for review from the department, the insurer shall provide to the department the following information:

1. Confirmation as to whether the person who received or sought the health service for which coverage was denied was a covered person on the date of service under a health benefit plan issued by the insurer;

2. Confirmation as to whether the covered person, authorized person, or provider has exhausted his or her rights under the insurer's appeal process under this section; and

3. The reason for the coverage denial, including the specific limitation or exclusion of the health benefit plan demonstrating that coverage is not available;

(c) In addition to the information described in paragraph (b) of this subsection, the insurer and the covered person, authorized person, or provider shall provide to the department any information requested by the department that is germane to its review;

(d) On the receipt of the information described in paragraphs (b) and (c) of this subsection, unless the department is not able to do so because making a determination requires resolution of a medical issue, it shall determine whether the service, treatment, drug, or device is specifically limited or excluded under the terms of the covered person's health benefit plan. If the department determines that the treatment, service, drug, or device is not specifically limited or excluded, it shall so notify the insurer, and the insurer shall either cover the service, or afford the covered person an opportunity for external review under Section 11, 12, and 13 of this Act, where the conditions precedent to the review are present. If the department notifies the insurer that the treatment, service, drug, or device is specifically limited or excluded in the health benefit plan, the insurer is not required to cover the service or afford the covered person an external review.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the covered person, authorized person, or provider has new clinical information regarding the covered person's internal appeal he or she shall provide that information to the insurer prior to the initiation of the external review process. The insurer shall have five (5) business days from the date of the receipt of the information to render a decision based on the new information. If new information is provided in accordance with this section, the sixty (60) day time frame for commencing an external review as set forth in subsection (4) of Section 12 of this Act, shall not begin to run, until the insurer or its designee renders a decision regarding the new information.

(2) The insurer's failure to make a determination or provide a written notice within the time frames set forth in Section 9 of this Act shall be deemed to be an adverse determination by the insurer for the purpose of initiating an external review as set forth in Section 12 of this Act.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Independent External Review Program is hereby established in the department. The program shall provide covered persons with a formal, independent review to address disagreements between the covered person and the covered person's insurer regarding an adverse determination made by the insurer, its designee, or a private review agent. This section and Sections 12 and 13 establish requirements and procedures governing external review and independent review entities.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer shall have an external review process to be utilized by the insurer or its designee, consistent with this section and which shall be disclosed to covered persons in accordance with subsection (1)(g) of Section 27 of this Act. An insurer, its designee, or agent shall disclose the availability of the external review process to the covered person in the insured's timely notice of an adverse determination or notice of a coverage denial as set forth in subsection (1)(i) of Section 4 and subsections (1) and (2)(e) of Section 9 of this Act. For purposes of this section "coverage denial" means an insurer's determination that a service, treatment, drug, or device is specifically limited or excluded under the covered person's health benefit plan.

(2) A covered person, an authorized person, or a provider acting on behalf of and with the consent of the covered person, may request an external review of an adverse determination rendered by an insurer, its designee, or agent.

(3) The insurer shall provide for an external review of an adverse determination if the following criteria are met:

(a) The insurer, its designee, or agent has rendered an adverse determination;

(b) The covered person has completed the insurer's internal appeal process, or the insurer has failed to make a timely determination or notification as set forth in subsection (2) of Section 10 of this Act. The insurer and the covered person may however, jointly agree to waive the internal appeal requirement;

(c) The covered person was enrolled in the health benefit plan on the date of service or, if a prospective denial, the covered person was enrolled and eligible to receive covered benefits under the health benefit plan on the date the proposed service was requested; and

(d) The entire course of treatment or service will cost the covered person at least one hundred dollars ($100) if not covered by the insurer.

(4) The covered person, an authorized person, or a provider with consent of the covered person shall submit a request for external review to the insurer within sixty (60) days, except as set forth in subsection (1) of Section 10 of this Act, of receiving notice that an adverse determination has been timely rendered under the insurer's internal appeal process. As part of the request, the covered person shall provide to the insurer or its designee written consent authorizing the independent review entity to obtain all necessary medical records from both the insurer and any provider utilized for review purposes regarding the decision to deny, limit, reduce or terminate coverage.

(5) The covered person shall be assessed a one (1) time filing fee of twenty-five dollars ($25) to be paid to the independent review entity and which may be waived if the independent review entity determines that the fee creates a financial hardship on the covered person. The fee shall be refunded if the independent review entity finds in favor of the covered person.

(6) A covered person shall not be afforded an external review of an adverse determination if:

(a) The subject of the covered person's adverse determination has previously gone through the external review process and the independent review entity found in favor of the insurer; and

(b) No relevant new clinical information has been submitted to the insurer since the independent review entity found in favor of the insurer.

(7) The department shall establish a system for each insurer to be assigned an independent review entity for external reviews. The system established by the department shall be prospective and shall require insurers to utilize independent review entities on a rotating basis so that an insurer does not have the same independent review entity for two (2) consecutive external reviews. The department shall contract with no less than two (2) independent review entities.

(8) (a) If a dispute arises between an insurer and a covered person regarding the covered person's right to an external review, the covered person may file a complaint with the department. Within five (5) days of receipt of the complaint, the department shall render a decision and may direct the insurer to submit the dispute to an independent review entity for an external review if it finds:

1. The dispute involves denial of coverage based on medical necessity or the service being experimental or investigational; and

2. All of the requirements of subsection (3) of this section have been met.

(b) The complaint process established in this section shall be separate and distinct from, and shall in no way limit other grievance or complaint processes available to consumers under other provisions of the KRS or duly promulgated administrative regulations. This complaint process shall not limit, alter, or supplant the mechanisms for appealing coverage denials established in Section 9 of this Act.

(9) The external review process shall be confidential and shall not be subject to KRS 61.805 to 61.850 and KRS 61.870 to 61.884.

(10) External reviews shall be conducted in an expedited manner by the independent review entity if the covered person is hospitalized, or if, in the opinion of the treating provider, review under the standard time frame could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the covered person or, with respect to a pregnant woman, the health of the covered person

or her unborn child in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of a bodily organ or part.

(11) Requests for expedited external review, shall be forwarded by the insurer to the independent review entity within twenty-four (24) hours of receipt by the insurer.

(12) For expedited external review, a determination shall be made by the independent review entity within twenty-four (24) hours from the date of its receipt of notice of the adverse determination from the insurer. An extension of up to twenty-four (24) hours may be allowed if the covered person and the insurer or its designee agree. The insurer or its designee shall provide notice to the independent review entity and to the covered person, by same-day communication, that the adverse determination has been assigned to an independent review entity for expedited review.

(13) External reviews which are not expedited shall be conducted by the independent review entity and a determination made within twenty-one (21) calendar days of receipt of the request for external review. An extension of up to fourteen (14) calendar days may be allowed if the covered person and the insurer are in agreement.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In making its decision, an independent review entity conducting the external review shall take into account all of the following:

(a) Information submitted by the insurer, the covered person, the authorized person, and the covered person's provider, including the following:

1. The covered person's medical records;

2. The standards, criteria, and clinical rationale used by the insurer to make its decision; and

3. The insurer's health benefit plan.

(b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the National Institutes of Health, or any board recognized by the National Institutes of Health, the National Cancer Institute, the National Academy of Sciences, and the United States Food and Drug Administration, the Health Care Financing Administration of the United States Department of Health and Human Services, and the Agency for Health Care Research and Policy; and

(c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical specialists, and clinical guidelines adopted by relevant national medical societies.

(2) The independent review entity shall base its decision on the information submitted under subsection (1) of this section. In making its decision, the independent review entity shall consider safety, appropriateness, and cost effectiveness.

(3) The insurer shall provide any coverage determined by the independent review entity to be medically necessary. The independent review entity shall not be permitted to allow coverage for services specifically limited or excluded by the insurer in its health benefit plan. The decision shall apply only to the individual covered person's external review.

(4) Nothing in this section shall be construed as requiring an insurer to provide coverage for out of network services, procedures, or tests, except as set forth in KRS 304.17A-515(1)(c) and 304.17A-550.

(5) The insurer shall be responsible for the cost of the external review.

(6) The independent review entity shall provide to the covered person, treating provider, insurer, and the department a decision which shall include:

(a) The findings for either the insurer or covered person regarding each issue under review;

(b) The proposed service, treatment, drug, device, or supply for which the review was performed;

(c) The relevant provisions in the insurer's health benefit plan and how applied; and

(d) The relevant provisions of any nationally recognized and peer-reviewed medical or scientific documents used in the external review.

(7) The decision of the independent review entity shall not be made solely for the convenience of the insurer, the covered person, or the provider.

(8) Consistent with the rules of evidence, a written decision prepared by an independent review entity shall be admissible in any civil action related to the adverse determination. The independent review entity's decision shall be presumed to be a scientifically valid and accurate description of the state of medical knowledge at the time it was written.

(9) The decision of the independent review entity shall be binding on the insurer with respect to that covered person. Failure of the insurer to provide coverage as required by the independent review entity shall:

(a) Be a violation of the insurance code of a nature sufficient to warrant the commissioner revoking or suspending the insurer's license or certificate of authority; and

(b) Constitute an unfair claims settlement practice as set forth in Section 18 of this Act.

(10) Failure to provide coverage as required by the independent review entity shall also subject the insurer to the provisions of KRS 304.99-010 and 304.99-020 and require the insurer to pay the claim that was the subject of the external review, without need for the covered person or authorized person to further establish a right as to the payment amount. Reasonable attorney fees associated with the actions of the insured necessary to collect amounts owed the covered person shall be assessed against and borne by the insurer.

(11) An independent review entity and any medical specialist the entity utilizes in conducting an external review shall not be liable in damages in a civil action for injury, death, or loss to person or property and is not subject to professional disciplinary action for making, in good faith, any finding, conclusion, or determination required to complete the external review. This subsection does not grant immunity from civil liability or professional disciplinary action to an independent review entity or medical specialist for an action that is outside the scope of authority granted in Sections 11, 12, and 13 of this Act.

(12) Nothing in Sections 1 to 17 of this Act shall be construed to create a cause of action against any of the following:

(a) An employer that provides health care benefits to employees through a health benefit plan;

(b) A medical expert, private review agent, or independent review entity that participates in the utilization review, internal appeal, or external review addressed in Sections 1 to 17 of this Act; or

(c) An insurer or provider acting in good faith and in accordance with any finding, conclusion, or determination of an Independent Review Entity acting within the scope of authority set forth in Sections 11, 12, and 13 of this Act.

(13) The covered person, insurer, or provider in the external review may submit written complaints to the department regarding any independent review entity's actions believed to be an inappropriate application of the requirements set forth in Sections 11, 12, and 13 of this Act. The department shall promptly review the complaint, and if the department determines that the actions of the independent review entity were inappropriate, the department shall take corrective measures, including decertification or suspension of the independent review entity from further participation in external reviews. The department's actions shall be subject to the powers and administrative procedures set forth in subtitle 17A of KRS Chapter 304.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) To be certified as an independent review entity under this chapter, an organization shall submit to the department an application on a form required by the department. The application shall include the following:

(a) The name of each stockholder or owner of more than five percent (5%) of any stock or options for an applicant;

(b) The name of any holder of bonds or notes of the applicant that exceeds one hundred thousand dollars ($100,000);

(c) The name and type of business of each corporation or other organization that the applicant controls or with which it is affiliated and the nature and extent of the affiliation or control;

(d) The name and a biographical sketch of each director, officer, and executive of the applicant and any entity listed under paragraph (c) of this subsection and a description of any relationship the named individual has with an insurer as defined in Section 1 of this Act or a provider of health care services;

(e) The percentage of the applicant's revenues that are anticipated to be derived from independent reviews;

(f) A description of the minimum qualifications employed by the independent review entity to select health care professionals to perform external review, their areas of expertise, and the medical credentials of the health care professionals currently available to perform external reviews; and

(g) The procedures to be used by the independent review entity in making review determinations; and

(2) If at any time there is a material change in the information included in the application, provided for in subsection (1) of this section, the independent review entity shall submit updated information to the department.

(3) The independent review entity shall annually submit to the department the information required by subsection (1) of this section in a form acceptable to the department.

(4) An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by an insurer or a trade or professional association of payors.

(5) An independent review entity shall not be a subsidiary of, or in any way affiliated with, or owned, or controlled by a trade or professional association of providers.

(6) Health care professionals who are acting as reviewers for the independent review entity shall hold in good standing a nonrestricted license in a state of the United States.

(7) Health care professionals who are acting as reviewers for the independent review entity shall hold a current certification by a recognized American medical specialty board in the area appropriate to the subject of the review, be a

specialist in the treatment of the covered person's medical condition under review, and have actual clinical experience in that medical condition.

(8) The independent review entity shall have a quality assurance mechanism to ensure the timeliness and quality of the review, the qualifications and independence of the physician reviewer, and the confidentiality of medical records and review material.

(9) Neither the independent review entity nor any reviewers of the entity, shall have any material, professional, familial, or financial conflict of interest with any of the following:

- ***(a) The insurer involved in the review;***
- ***(b) Any officer, director, or management employee of the insurer;***
- ***(c) The provider proposing the service or treatment or any associated independent practice association;***
- ***(d) The institution at which the service or treatment would be provided;***
- ***(e) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the covered person whose treatment is under review; or***
- ***(f) The covered person.***

(10) As used in this section, "conflict of interest" shall not be interpreted to include:

- ***(a) A contract under which an academic medical center or other similar medical center provides health care services to covered persons, except for academic medical centers that may provide the service under review;***
- ***(b) Provider affiliations which are limited to staff privileges; or***
- ***(c) A specialist reviewer's relationship with an insurer as a contracting health care provider, except for a specialist reviewer proposing to provide the service under review.***

(11) On an annual basis, the independent review entity shall report to the department the following information:

- ***(a) The number of independent review decisions in favor of covered persons ;***
- ***(b) The number of independent review decisions in favor of insurers;***
- ***(c) The average turnaround time for an independent review decision;***
- ***(d) The number of cases in which the independent review entity did not reach a decision in the time specified in statute or administrative regulation; and***
- ***(e) The reasons for any delay.***

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations to implement the provisions of Sections 11,12 13, 14, 15, and 16 of this Act.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers subject to the administrative regulations required under Section 15 of this Act shall have no less than ninety (90) days to comply with the provisions of the administrative regulations.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall report every six (6) months to the Interim Joint Committee on Banking and Insurance, and to the Governor on the state of the Independent External Review Program. The report shall include a summary of the number of reviews conducted, medical specialties affected, and a summary of the findings and recommendations made by the independent external review entity.

Section 18. KRS 304.12-230 is amended to read as follows:

It is an unfair claims settlement practice for any person to commit or perform any of the following acts or omissions:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;[~~or~~]

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement*; or*

(15) Failing to comply with the decision of an independent review entity to provide coverage for a covered person as a result of an external review in accordance with Sections 11, 12, and 13 of this Act.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 19, 20, 21, 22, and 23 of this Act "Emergency medical condition" means:

(1) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson would reasonably have cause to believe constitutes a condition that the absence of immediate medical attention could reasonably be expected to result in:

(a) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part; or

(2) With respect to a pregnant woman who is having contractions:

(a) A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

(b) A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Where a covered person with an emergency medical condition has been stabilized, as required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 42 U.S.C. sec. 300bb, in the emergency department of a nonparticipating hospital, and an insurer under its health benefit plan requires prior authorization for poststabilization treatment, approval or denial under the preauthorization requirement shall be provided in a timely manner appropriate to conditions of the patient and delivery of the services, but in no case to exceed two (2) hours from the time the request is made and all relevant information is provided. The insurer's failure to make a determination within the two (2) hour time frame, shall constitute an authorization for the hospital to provide the medical service for which prior authorization was sought.

(2) The nonparticipating hospital providing emergency room services, poststabilization treatment, or both, shall be paid at a rate negotiated between the nonparticipating hospital and the insurer. Nothing in this section is to be construed as requiring the payment of one hundred percent (100%) of the billed charges.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) "Special circumstances" includes a circumstance in which a covered person has a disability, a life-threatening illness, or is past the twenty-fourth week of pregnancy where disruption of the covered person's continuity of care could cause medical harm.

(2) Any special circumstance shall be identified by the treating provider, who may request, with the concurrence of the covered person, that the covered person be permitted to continue treatment under the provider's care even when the provider is no longer participating in the network, unless the provider has been terminated for a reason related to quality. The treating, non network provider shall agree to care for the covered person under the same guidelines and

payment schedule as required by the plan, and shall report to the plan on the care being provided.

(3) Procedures for resolving disputes regarding the necessity for continued treatment by a provider shall be established by the plan and shall provide for review through the plan's internal appeal process.

(4) This section does not extend the obligation of the plan to pay a terminated or nonrenewed provider for ongoing treatment of a covered person with "special circumstances":

(a) Beyond the ninetieth day after the effective date of the termination or nonrenewal;

(b) Beyond nine (9) months in the case of a covered person who at the time of the termination has been diagnosed with a terminal illness; or

(c) If the covered person is beyond the twenty-fourth week of pregnancy, the plan's obligation to pay for services extends through the delivery of the child, immediate postpartum care, and examination within the first six (6) weeks following delivery.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall not, under its health benefit plan prohibit a primary care physician from authorizing a covered person's referral to a participating nonprimary care physician specialist. A primary care physician treating a covered person who has a chronic, disabling, or life-threatening condition may authorize a referral to a participating nonprimary care physician specialist, up to twelve (12) months or for the contract period, whichever is shorter. Under this referral arrangement the covered person shall have direct access to the nonprimary care physician specialist, without the need of further contact or referral by the primary care physician.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall not, under its health benefit plan prohibit a primary care physician from authorizing a covered person's referral to a participating obstetrician or gynecologist. A primary care physician treating a covered person who is pregnant or has a chronic gynecological condition may authorize a referral to a participating obstetrician or gynecologist, up to twelve (12) months or for the contract period, whichever is shorter. Under this referral arrangement the covered person shall have direct access to the obstetrician or gynecologist, without the need of further contact or referral by the primary care physician.

(2) A female covered person shall be covered for an annual pap smear performed by an obstetrician or gynecologist without a referral from a primary care provider.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations necessary to implement the provisions of Sections 19, 20, 21, 22, and 23 of this Act.

Section 25. KRS 304.17A-520 is amended to read as follows:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) Women shall be able to choose a qualified health care provider offered by a plan for the provision of covered care necessary to provide routine and preventive women's health care services.

(4) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion. ***Obtaining the second opinion shall not cost a covered person more than the covered person's normal copay.***

Section 26. KRS 304.17-412 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by ***an insurer, its designee, or*** a private review agent shall:

(a) Be~~[a]~~ registered~~[private review agent]~~ in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~; or

(b) Contract with a private review agent that has been registered in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~.

(2) Notwithstanding any other provision of ***Sections 2, 3, 4, 5, 6, 7, and 8 of this Act***~~[KRS 211.461 to 211.466]~~, an insurer ***or its designee*** shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients~~,~~***, authorized persons,*** and health-care providers of their right to appeal adverse determinations of ***a utilization review by*** the ***insurer, its designee, or*** private review agent to the ***insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act***[~~Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)~~]. The notice shall also include instructions on filing an ***internal*** appeal[~~ to the cabinet~~]; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 27. KRS 304.17A-505 is amended to read as follows:

An insurer shall disclose in writing to ***a covered person and*** an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health ***benefit plan***[~~insurance contract~~] and shall promptly provide the ***covered person and*** enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to ***the following:***

1. ***A utilization review***[~~appeal~~] and the procedure for initiating ***a utilization review, if an insurer elects to provide utilization review;***

2. An ***internal*** appeal of a utilization ***review***[~~management decision~~] made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service~~,~~***, and the procedure to initiate an internal appeal***; ***and***

3. ***An external review and the procedure to initiate the external review process.***

(h)[~~ The procedure to initiate an appeal through the process under KRS 211.464(1)(g);~~

~~(i)~~] Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(i)[~~(j)~~] Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

Section 28. KRS 304.18-045 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by ***an insurer, its designee, or*** a private review agent shall:

(a) Be[~~ a~~] registered[~~ private review agent~~] in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***[~~KRS 211.462~~]; or

(b) Contract with a private review agent that has been registered in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***[~~KRS 211.462~~].

(2) Notwithstanding any other provision of ***Sections 2, 3, 4, 5, 6, 7, and 8 of this Act***[~~KRS 211.461 to 211.466~~], an insurer ***or its designee*** shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients~~,~~***, authorized persons,*** and health-care providers of their right to appeal adverse determinations of ***a utilization review by*** the ***insurer, its designee, or*** private review agent to the ***insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act***[~~Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)~~]. The notice shall also include instructions on filing an ***internal*** appeal[~~ to the cabinet~~]; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 29. KRS 304.32-147 is amended to read as follows:

(1) Every nonprofit hospital, medical-surgical, dental, and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with ***Section 4 of this Act and administrative regulations***

promulgated under the authority of Section 7 of this Act~~[KRS 211.462]~~; or

(b) Contract with a private review agent that has been registered in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~.

(2) Notwithstanding any other provision of ***Sections 2, 3, 4, 5, 6, 7, and 8 of this Act***~~[KRS 211.461 to 211.466]~~, a nonprofit hospital, medical-surgical, dental, and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients***, authorized persons,*** and health-care providers of their right to appeal adverse determinations of ***a utilization review by*** the ***insurer, its designee or*** private review agent to the ***insurer for the internal appeal process established by the insurer in accordance with Sections 9 and 10 of this Act***~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The nonprofit hospital, medical-surgical, dental, and health service corporation is in compliance with subsection (1) of this section.

Section 30. KRS 304.32-330 is amended to read as follows:

(1) Every employer in this state which provides coverage of hospital benefits on a self-insured basis and requires the utilization review of such benefits by ***an insurer, its designee, or*** a private review agent shall:

(a) Be a registered private review agent in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~; or

(b) Contract with a private review agent that has been registered in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~.

(2) Notwithstanding any other provision of ***Sections 2, 3, 4, 5, 6, 7, and 8 of this Act***~~[KRS 211.461 to 211.466]~~, a self-insured employer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued; and

(b) The self-insured employer is in compliance with subsection (1) of this section.

Section 31. KRS 304.38-225 is amended to read as follows:

(1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~; or

(b) Contract with a private review agent that has been registered in accordance with ***Section 4 of this Act and administrative regulations promulgated under the authority of Section 7 of this Act***~~[KRS 211.462]~~.

(2) Notwithstanding any other provision of ***Sections 2, 3, 4, 5, 6, 7, and 8 of this Act***~~[KRS 211.461 to 211.466]~~, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients***, authorized persons,*** and health-care providers of their right to appeal adverse determinations of ***a utilization review by*** the ***insurer, its designee, or*** private review agent to the ***insurer for the internal review process established by the insurer in accordance with Sections 9 and 10 of this Act***~~[Cabinet for Health Services under the dispute resolution process established pursuant to KRS 211.464(1)(g)]~~. The notice shall also include instructions on filing an ***internal*** appeal~~[to the cabinet]~~; and

(b) The health maintenance organization is in compliance with subsection (1) of this section.

Section 32. KRS 304.47-050 is amended to read as follows:

(1) Any person, other than an insurer, agent, or other person licensed under this chapter, or an employee thereof, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the Division of Insurance Fraud Investigation a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.

(2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the Division of Insurance Fraud Investigation a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:

(a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;

(b)~~[Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;~~

~~(c)~~] Any private medical review committee;

(c)[~~(d)~~]Any insurer, agent, or other person licensed under this chapter; and

(d)[~~(e)~~]Any employee of the persons named in paragraphs (a) to *(c)*[~~(d)~~] of this subsection.

(3) The Division of Insurance Fraud Investigation or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.

(4) The Department of Workers' Claims shall provide the division access to all relevant information the commissioner may request.

(5) The Division of Insurance Fraud Investigation shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.

(6) Notwithstanding the provisions of subsections (1) to (5) of this section, when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured may notify a law enforcement agency of their knowledge or reasonable belief and provide information relevant to the fraudulent insurance act, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss.

(7) If the information referred to in subsection (6) of this section is specifically requested by a law enforcement agency or prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.

(8) In the absence of malice, fraud, or gross negligence, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

Section 33. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6)[~~A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.~~

~~(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.~~

~~(8)~~] A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(7)[~~(9)~~]Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied

facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(8)[~~(10)~~] The penalties provided in subsections (6), ***and*** (7)[~~, (8), and (9)~~] of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(9)[~~(11)~~] Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 34. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether

KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26)[~~ A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.~~

~~(27)~~] Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(27)[~~(28)~~] Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(28)[~~(29)~~] Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(29)[~~(30)~~] Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(30)[~~(31)~~] Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 35. The following KRS section is repealed:

211.461 Definitions.
211.462 Registration of private review agent required -- Exceptions.
211.463 Duties of private review agent regarding utilization review.
211.464 Regulations -- Reporting requirements -- Copies of policies or procedures -- List of registered agents.
211.465 Procedures for registration and renewal.
211.466 Enjoining operation of improperly registered agent.
311.131 Definitions.
311.132 Certificate required for private review agent -- Exceptions.
311.133 Administrative regulations.
311.134 Requirements for health benefit program covering hospital and medical benefits and utilization review thereof.
311.135 Application for a certificate.
311.136 Expiration and renewal of certificate.
311.137 Revocation or denial of certificate.
311.138 Hearing and appeal.
311.139 Confidentiality of individual medical records.

The Committee Amendment No. 1 to the Committee Substitute to **HB 437** is as follows:

On page 48, lines 9 and 10, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time hiring supplements***";

On page 48, line 17, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time supplement***";

On page 48, line 18, by deleting "***the maximum compensation***" and inserting in lieu thereof "***a supplement***";

On page 48, lines 20 and 21, by deleting "***additional compensation***" and inserting in lieu thereof "***a supplement***"; and

On page 49, line 15, after the period by inserting "***Payments to any teacher under this subsection by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and the payments shall not affect the eligibility of any school district to share in the distributions of funds from the public school funds as established in KRS Chapter 157.***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 437** is as follows:

On page 17, by inserting between lines 8 and 9 the following:

"***(f) The provisions of paragraphs (a), (b), and (e) of this subsection shall not apply to any teacher who, on July 1, 2001, holds a valid Kentucky teaching certificate that authorizes the teacher to teach in kindergarten through the eighth grade. Possession of a kindergarten through the eighth grade Kentucky teaching certificate establishes the adequacy of the teacher's preparation, qualifications, and training to teach all content areas in grades five (5) through eight (8).***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 640** is as follows:

On page 4, between lines 3 and 4, by inserting the following:

"***(7) Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.***";

On page 4, line 4, by inserting "***(8)***" and by bracketing and striking through "(7)";

On page 4, line 11, by inserting "***(9)***" and by bracketing and striking through "(8)";

On page 4, after line 14, by inserting the following:

"Section 2. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult and Technical Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (6) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) ***Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for certified employees in KRS 157.420(2).***

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8)[~~(7)~~]The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9)[~~(8)~~]Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10)[~~(9)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11)[~~(10)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

The Committee on Economic Development reported **HB 852,** with Committee Amendment attached thereto, and **HB 902,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 852, AN ACT relating to incremental financing by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "City" means any city or urban-county;

(2) "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;

(3) "County" means any county or charter county;

(4) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

(5) "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more economic development projects is proposed to be located;

(6) "Economic development project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:

(a) Being for a public purpose;

(b) Being for economic development purposes;

(c) Being in or related to a development area; and

(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;

(7) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;

(8) "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of Sections 1 to 11 of this Act;

(9) "Governing body" means the body possessing legislative authority in a city or county;

(10) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more economic development projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;

(11) "Increments" means that amount of revenue due to be received by a city or county, determined by subtracting the amount of old revenues from the amount of new revenues with respect to a development area;

(12) "Issuer" means a city or county issuing increment bonds;

(13) "New revenues" means the revenues received with respect to a development area in any year after the commencement date for the development area;

(14) "Old revenues" means the amount of revenues received with respect to a development area in the last year prior to the commencement date for the development area;

(15) "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

(a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or

(c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(16) "Revenues" means ad valorem revenues and occupational license fees received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;

(17) "Special fund" means a special fund created in accordance with Section 5 of this Act into which increments are to be deposited;

(18) "Tax collector" means any official charged with collecting revenues in a development area;

(19) "Termination date" means the date on which the development area shall cease to exist, which date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding, and which shall be no later than the first December 31 that is at least thirty (30) years from the commencement date; and

(20) "Year" means January 1 to December 31 of the same calendar year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that economic development created by the development of economic development projects to support economic revitalization and improvement in a development area which results in the increase in the value of property located in a development area or results in increased employment opportunities within or around a development area serves a public purpose.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

In addition to any other powers conferred by law, any city or county may exercise any powers necessary or convenient to carry out the purposes of Sections 1 to 11 of this Act, including the power to:

(1) Create development areas and to define their boundaries;

(2) Undertake economic development projects;

(3) Issue increment bonds and pledge increments to the payment of debt charges on those increment bonds;

(4) Create a special fund established for the deposit of increments and other funds that may be used or pledged for the payment of increment bonds and to pay the costs of economic development projects; and

(5) Utilize increments to pay the costs of economic development projects and for the payment of amounts due on increment bonds.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city or county may establish or modify a development area by:

  (a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:

    1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the development area;

    2. Include a general description of the boundaries of the proposed development area;

    3. State the time and place of the hearing; and

    4. Be published in a local newspaper of general circulation at least seven (7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and

  (b) Adopting an ordinance which shall:

    1. Describe the boundaries of the development area with sufficiency to allow ordinary and reasonable certainty of the territory included. However, no development area shall include property located in any other development area;

    2. Create the development area on a date certain, which shall be referred to as the commencement date, and, if deemed appropriate by the governing body, establish a termination date;

    3. Assign a name to the development area for identification purposes;

    4. Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;

    5. Approve the financing agreement, if any, relating to the economic development project;

    6. Establish a special fund for that development area; and

    7. Contain any other findings, limitations, rules or procedures regarding the development area and its establishment or maintenance as deemed necessary by the governing body; and

  (c) Providing the revenue collector, if the collector is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues.

(2) Increments generated in a development area shall be submitted by the revenue collector to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of economic development projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the economic development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a financing agreement that provides that some or all of the increments are to be submitted to a special fund.

(3) The existence of a development area shall terminate on the termination date and if no termination date is established by the ordinance creating the development area, on the earlier of the termination date subsequently established by ordinance or the first December 31st that is at least thirty (30) years from the commencement date.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

While increment bonds are outstanding, the issuer shall maintain a special fund which shall be pledged for the retirement of those increment bonds. Revenue collectors shall, for each year a financing agreement is in effect or any increment bonds are outstanding with respect to a development area, determine the amount of increments from the development area which they are charged with collecting and submit those increments for deposit in the special fund established by the governing body for that development area. Funds deposited in a special fund for the payment of increment bonds shall be disbursed at the times and in the amounts required to pay debt charges on those increment bonds. Accrued interest from the sale of increment bonds shall be deposited in the special fund pledged to the payment of those bonds. Amounts in a special fund which exceed the amount required to pay debt charges on related increment bonds in any fiscal year may accumulate in the special fund for the payment of future debt charges or to pay the costs of additional economic development projects in the development area, or may be transferred by the governing body from the special fund under the terms of a financing agreement or used for any lawful purpose.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Increment bonds shall be issued, administered, and regulated only by ordinance adopted by the governing body which, in addition to any other provisions deemed appropriate by the governing body, shall:

(1) Declare the necessity of the increment bond issue;

(2) State the principal amount or maximum principal amount of the increment bonds to be issued;

(3) State the purpose of the increment bond issue;

(4) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;

(5) State any provisions for a mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;

(6) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing or determining the rate or rates of interest to be paid on the increment bonds; and

(7) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this section, subject to any limitations stated in the proceedings.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Increment bonds may be issued to pay the costs of economic development projects. The provisions of KRS 66.021, KRS 66.031, KRS 66.041, KRS 66.045, KRS 66.071, KRS 66.091, KRS 66.121, KRS 66.131, KRS 66.141, KRS 66.151, KRS 66.171, KRS 66.181, and KRS 66.191 shall apply to the issuance of increment bonds.

(2) Debt payments on increment bonds may be paid from increments, from any other funds of the issuer, or from funds identified in a financing agreement, or any combination thereof. If increment bonds are payable solely from increments, the issuer shall, prior to the issuance of the increment bonds, make a determination that the increments are adequate to make the debt payments so long as the increment bonds are outstanding.

(3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this subsection shall mature as determined by the governing body consistent with KRS 66.091, but their maturity shall not be later than the date that would have been permitted by KRS 66.091, as of the date the original bonds were issued.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or county may pledge increments to the payment of increment bonds by an ordinance adopted by the governing body or by a financing agreement adopted by ordinance. Any pledge of increments adopted under this section shall, as to the increments, but not as to any other revenues, be superior to any other pledge of revenues for any other purpose and shall, from the effective date of the ordinance to the termination date, supersede any statute or ordinance regarding the application or use of increments. No ordinance in conflict with an ordinance pledging increments shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Upon establishment of a development area, any city or county may release, by a financing agreement with any other city or county, increments expected to be collected by that city or county in the related development area for a period that does not extend beyond the termination date.

(2) The financing agreement shall include the following provisions:

(a) The identity of each city and county participating in the financing agreement;

(b) A detailed description of each economic development project that is the subject of the financing agreement, including an estimate of its costs of construction or acquisition and development;

(c) A detailed description of the development area;

(d) A detailed summary estimating old revenues collected and projected new revenues in the development area for each city and county that is a party to the financing agreement, on an annual basis, for the term of the proposed financing agreement;

(e) The maximum amount of increments to be released by the parties to the financing agreement, if any, and the maximum number of years the release will be effective, including an agreement to deposit the increments in a special fund created for that purpose, which, if any increment bonds are to be issued, shall be held by the issuer of the increment bonds;

(f) The times and procedures for depositing increments and other funds, if any, in the special fund to be established for the development area and any provisions relating to the collection of the increments;

(g) Any covenants regarding additional funds or to pay the costs of the economic development projects;

(h) Any covenants regarding completion of the economic development project;

(i) Terms of default and remedies, except that no remedy shall permit the withholding by any party to the financing agreement of any increments to be deposited in the special fund identified in the financing agreement so long as any increment bonds are outstanding that are secured by a pledge of those increments; and

(j) Any other provisions not inconsistent with Sections 1 to 11 of this Act that are deemed necessary or appropriate by the parties to the financing agreement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The authority granted by Sections 1 to 11 of this Act is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act may be cited as the Kentucky Increment Financing Act.

The Committee Amendment No. 1 to **HB 852** is as follows:

On Page 3, between Lines 14 and 15 by inserting the following words, "***(16) "Revenue collector" means any official charged with collecting revenues in a development area;***"

On Page 3, Line 15 by deleting the word "***(16)***" and inserting the word "***(17)***" in lieu thereof;

On Page 3, Line 18 by deleting the word "***(17)***" and inserting the word "***(18)***" in lieu thereof; and

On Page 3, Lines 20 to 21, by deleting them in their entirety.

HB 902, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Agreement" means any agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(2) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(3) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(5) "Authority" means the Kentucky Economic Development Finance Authority created in KRS 154.20-010;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(8) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(9) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(10) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(11) "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(12) ***"Information technology business" means any corporation, limited liability company, partnership, registered limited liability partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, shall engage in but not be limited to the design, development, and production of prepackaged computer software or hardware; developing or modifying computer hardware; developing or modifying computer software and packaging or bundling the software with purchased computer hardware to create and market an integrated system for***

specific application; provide computer processing and data preparation services; provide on-line information retrieval services; provide on-site management and operation of computer and data processing facilities; provide on-line information access services.

(13) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(14)~~[(13)]~~ "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(15)~~[(14)]~~ "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(16)~~[(15)]~~ "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(17)~~[(16)]~~ "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(18)~~[(17)]~~ "Start-up costs" means the cost of furnishing and equipping the building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.24-130.

Section 2. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) *(a)* The economic development project shall result in the creation by the eligible company of a minimum of twenty-five (25) new full time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;

(b) The provisions of paragraph (a) of this subsection notwithstanding, an information technology business shall not be required to create a minimum number of new full-time jobs for Kentucky residents to be employed by the eligible information technology business and to be held by persons subject to the personal income tax of the Commonwealth within one (1) year of the date of the final resolution authorizing the economic development project to be undertaken by the information technology business.

(3) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(4) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 3. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdiction, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) ***With the exception of information technology businesses,*** a provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax is less than twenty-five (25), or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least twenty-five (25) full-time employees who are residents of the Commonwealth and who are subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax equals or exceeds twenty-five (25); or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 4. KRS 154.24-140 is amended to read as follows:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) ***With the exception of information technology businesses,*** to become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least twenty-five (25) full-time employees who are residents of the Commonwealth and who are subject to the Kentucky income tax.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the

expanded business under the same conditions as authorized for expansion in this section.

The Committee Substitute No. 1 to **HB 902** is as follows:

HB 902, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) During the first five (5) years after the effective date of the agreement an advanced technology start-up company may transfer any or all of the income tax credits for which it has been approved to:

(a) Landlords in return for reductions in occupancy costs, including rent and parking fees;

(b) Lenders in return for financial concessions, including interest rate reductions; or

(c) Equity investors.

(2) The persons or entities to which the credits are transferred shall not be an affiliate, as defined in KRS 154.22-010, of the approved company and shall claim the credits in the year in which they are transferred. Evidence of the transfer shall be provided on forms developed by the cabinet in consultation with the Revenue Cabinet. Credits transferred by the approved company and claimed by the transferor shall be treated as having been taken by the approved company for purposes of KRS 154.24-110(1)(a).

SECTION 2. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this subchapter, a local government that has approved in lieu of credits for an advanced technology start-up company may provide an additional inducement of up to one-half percent (0.5%) of employees' gross wages for the duration of the agreement, exclusive of any noncash benefits provided to an employee, as an incentive for the company to locate in a specific geographic area within the local jurisdiction.

SECTION 3. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations to allow preliminary approval of the application for inducements by an advanced technology start-up company within thirty (30) days of the cabinet's receipt of a properly completed application.

Section 4. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) *"Advanced technology start-up company" means an eligible company:*

(a) Formed within two (2) years prior to the date of the application to the authority for inducements or having fewer than twenty-five (25) employees as of the date of application;

(b) Having a capitalization of less than one million dollars ($1,000,000) as of the date of the application;

(c) Paying wages greater than one hundred fifty percent (150%) of the average state wage to more than one-half (1/2) of its employees; and

(d) Having as its primary business:

1. The sale of goods or services on the Internet;

2. The design, development, or production of computers, or computer software, programs, or components;

3. The design, development, or production and sale of processes or products in the fields of information technology, medicine, engineering, electronics, electronic commerce, telecommunications, graphics, optics, chemistry, biotechnology, or pharmacology; or

4. The development and sale of products or processes, or combinations of products, processes, and services, the principal value of which is attributable to intellectual property;

(2) "Agreement" means any agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3)[~~(2)~~]"Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4)[~~(3)~~]"Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5)[~~(4)~~]"Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6)[~~(5)~~]"Authority" means the Kentucky Economic Development Finance Authority created in KRS 154.20-010;

(7)[~~(6)~~]"Commonwealth" means the Commonwealth of Kentucky;

(8)[~~(7)~~]"Economic development project" or "project" means a service or technology activity conducted by an approved company;

(9)[~~(8)~~]"Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(10)[~~(9)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(11)[~~(10)~~] "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(12)[~~(11)~~] "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(13)[~~(12)~~] ***"Information technology" means the design, development, and production of prepackaged computer software or hardware; developing or modifying computer hardware; developing or modifying computer software and packaging or bundling the software with purchased computer hardware to create and market an integrated system for specific application; providing computer processing and data preparation services; providing on-line information retrieval service; providing on-site management and operation of computer and data processing facilities; or providing on-line information access services.***

(14) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(15)[~~(13)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(16)[~~(14)~~] "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(17)[~~(15)~~] "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(18)[~~(16)~~] "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(19)[~~(17)~~] "Start-up costs" means the cost of furnishing and equipping the building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.24-130 ***and direct costs, including labor costs of research and development in the first two (2) years after the effective date of the agreement***.

Section 5. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) The economic development project shall result in the creation by the eligible company of a minimum of twenty-five (25) new full time jobs***, or for businesses as described in subsection (1)(d) of Section 4 of this Act, a minimum of five (5) new full-time jobs with wages greater than one hundred fifty percent (150%) of the average state wage as determined by the cabinet,*** for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;

(3) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(4) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 6. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdiction, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax is less than ***the number of jobs as set forth in subsection (2) of Section 5 of this Act***[~~twenty-five (25)~~], or in the case of an existing Kentucky business the approved company fails to maintain the increase ***in the full-time employees equal to***[~~of~~] at least ***the number of jobs as set forth in subsection (2) of Section 5 of this Act***[~~twenty-five (25) full-time employees~~] who are residents of the Commonwealth and who are subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax equals or exceeds ***the number of jobs as set forth in subsection (2) of Section 5 of this Act***[~~twenty-five (25)~~]; or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority***, except as provided in Section 1 of this Act***.

Section 7. KRS 154.24-140 is amended to read as follows:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in

remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least ***the number of jobs as set forth in subsection (2) of Section 5 of this Act which are filled by***[~~twenty-five (25)~~] full-time employees who are residents of the Commonwealth and who are subject to the Kentucky income tax.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

The Committee on Local Government reported **HB 155,** with Committee Substitute attached thereto, **HB 524,** with Committee Substitute and Committee Amendment attached thereto, **HB 555,** with Committee Amendments attached thereto, **HB 726,** with Committee Amendment attached thereto, **HB 865, HB 877, HB 889, HB 903,** with Committee Amendment attached thereto, **HB 909, HB 916, HB 925, HB 931, HB 938,** with Committee Amendment attached thereto, **HB 995,** with Committee Amendments attached thereto, **HB 1000,** with Committee Amendment attached thereto, **HCR 147, SB 113, SB 149,** with House Committee Substitute attached thereto, and **SB 194** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 155, AN ACT relating to public administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.343 is amended to read as follows:

(1) ***Notwithstanding any other provision of law, local public agencies, excluding school districts, shall comply with KRS 45A.345 to 45A.460 when procuring construction services or materials for any local capital construction project that costs over one million dollars ($1,000,000).***

(2) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No other statutes governing purchasing shall apply to a local public agency ***that adopts***[~~ upon adoption of~~] these provisions ***under this subsection***.

(3) Local public officials or employees involved in a procurement process for construction services under KRS 45A.345 to 45A.460, who have authority to recommend, approve, or execute a construction contract, shall document and report all procurement-related contact with potential or actual bidders, vendors, or offerors, or any person acting on their behalf, occurring from the date an invitation to bid or a request for proposals is issued until the contract is awarded. The report shall include the date, time, and place, and a summary of the substance of the contact, and shall be made to the chief procurement officer within two (2) working days of the contact. The chief procurement officer shall maintain a file of the reports, made available for public inspection, until at least three (3) years after the project is completed.

(4)[~~(2)~~]After July 15, 1994, any contract entered into by a local public agency, whether under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor and all subcontractors performing work under the contract to:

(a) Reveal any final determination of a violation by the contractor or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor; and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor for the duration of the contract.

(5)[~~(3)~~]A contractor's failure to reveal a final determination of a violation by the contractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

(6)~~[(4)]~~A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's disqualification of the subcontractor from eligibility for future contracts for a period of two (2) years.

Section 2. KRS 45A.365 is amended to read as follows:

(1) All contracts or purchases shall be awarded by competitive sealed bidding, except as otherwise provided by KRS 45A.370 to 45A.385.

(2) The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(3) Adequate public notice of the invitation for bids shall be given prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper of general circulation in the local jurisdiction not less than seven (7) days before the date set for the opening of the bids. The public notice shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.

(4) The bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection***, except as provided in subsection (8) of this section***. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price.

(6) The local public agency may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.

(7) For local capital construction projects that cost over one million dollars ($1,000,000), the invitation to bid shall require the bidder to identify, in the bid, all subcontractors and major suppliers on which the bid relies. The local public agency shall not award a contract for any bid that does not contain this information.

(8) Local public officials or employees shall not disclose the information on subcontractors and major suppliers required under subsection (7) of this section until the contract is awarded or until the agency rejects all bids and decides not to enter into competitive negotiations or to rebid the project.

Section 3. KRS 45A.370 is amended to read as follows:

(1) A local public agency may contract or purchase through competitive negotiation upon a written finding that:

(a) Specifications cannot be made sufficiently specific to permit award on the basis of either the lowest bid price or the lowest evaluated bid price, including, but not limited to, contracts for experimental or developmental research work, or highly complex equipment which requires technical discussions, and other nonstandard supplies, services, or construction; or

(b) Sealed bidding is inappropriate because the available sources of supply are limited, the time and place of performance cannot be determined in advance, the price is regulated by law, or a fixed price contract is not applicable; or

(c) The bid prices received through sealed bidding are unresponsive or unreasonable as to all or part of the requirements, or are identical or appear to have been the result of collusion; provided each responsible bidder is notified of the intention to negotiate and is given a reasonable opportunity to negotiate, and the negotiated price is lower than the lowest rejected bid by any responsible bidder.

(2) Proposals shall be solicited through public notice pursuant to KRS 45A.365(3) or any other means which can be demonstrated to notify an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement. The request for proposals shall indicate the factors to be considered in the evaluation and the relative importance of each factor.

(3) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where such prices are fixed by law or regulation except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with that particular supply, service, or construction item that acceptance of an initial offer without discussion would result in fair and reasonable prices and the request for proposal notifies all offerors of the possibility that award may be made on the basis of initial offers.

(4) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions. A request for proposals based on revised specifications or quantities shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror. No discussion shall be conducted with offerors after submission of revised proposals except for a compelling reason as determined in writing by the local public agency. The request for proposals shall state that an award is to be made without discussion except as herein provided.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the local public agency based upon the evaluation factors set forth in the request for proposals.

(6) For local capital construction projects that cost over one million dollars ($1,000,000), the request for proposals shall require the offeror to identify, in the proposal, all subcontractors and major suppliers on which the proposal relies. The local public agency shall not award a contract for any proposal that does not contain this information.

Section 4. KRS 45A.990 is amended to read as follows:

(1) Any violation of KRS 45A.045 shall be deemed a Class D felony.

(2) Any person who violates any of the provisions of KRS 45A.325 shall be guilty of a Class D felony. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(3) Any person who violates any provisions of KRS 45A.330 to 45A.340 shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(4) Any willful violation of KRS 45A.690 to 45A.725 shall be a Class A misdemeanor.

(5) Any person who willfully violates this code shall be guilty of a Class A misdemeanor.

(6) Any employee or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.

(7) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employee or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

(8) Criminal penalties for violations of the laws which are in existence on January 1, 1980, shall not be impaired.

(9) ***Any person who knowingly and willfully falsifies, misrepresents, conceals, or covers up, in writing or otherwise, any fact material to a decision to award or not to award a contract under this chapter shall be guilty of a Class D felony.***

(10) Any person convicted under subsection (7) or (9) of this section may be required by the contracting agency to forfeit any contract then held and shall be ineligible to receive any future contract or award from any state or local public agency for a period of five (5) years from the date of conviction.

(11) Any violation of KRS 45A.455(5) or of the disclosure prohibition in subsection (3) of Section 3 of this Act shall be a Class D felony.

(12) This section shall not apply to any officer or employee of a political subdivision, including a school district, nor to the procurement activities of any such political subdivision unless such political subdivision has elected to operate under KRS 45A.345 through 45A.460.

Section 5. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:
  (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
  (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
  (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

[~~(d) At its discretion, to compile and publish annually a report on local government.~~]

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be

responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) ***Rural Development***[~~Farmers Home Administration~~];

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review; ***and***

(l) The ***memoranda***[~~memorandums~~] of agreement with the area development districts to provide management assistance to local governments[~~; and~~

~~(m) The urban development office~~].

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) The Department for Local Government shall establish and conduct a training course, by January 1, 2001, on the procurement procedures of KRS 45A.343 to 45A.460. The department may charge a reasonable fee for the training course. The department may establish policies, procedures, and requirements for the course by promulgating administrative regulations in accordance with KRS Chapter 13A.

(6) The training course required by subsection (5) of this section shall be subject to the following minimum requirements:

(a) The course shall be at least four (4) hours long and may be prepared as a video course;

(b) The course shall be available to all county or other local public officials or employees with procurement-related duties;

(c) The course shall count toward the forty (40) hours of training needed for the training incentive benefit under KRS 64.5275(6) or (7);

(d) The course shall be available at each annual convention of the following organizations: the Kentucky Association of Counties, the Kentucky League of Cities, the Kentucky County Judge/Executives Association, the Kentucky Magistrates and Commissioners Association, and the Kentucky Rural Water Association; and

(e) The department shall develop and provide standard procurement and procurement-related forms and documents for local governments.

Section 6. KRS 522.040 is amended to read as follows:

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise ***that***[~~which~~] may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action; or

(c) Aids another to do any of the foregoing.

(2) ***A person other than a public servant is guilty of misuse of confidential information if he knowingly uses confidential information from a public servant in contemplation of an official action by a governmental unit, with the intent to:***

(a) Receive a pecuniary interest in any property transaction or enterprise that may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action.

(3) Misuse of confidential information is a Class D felony.

Section 7. KRS 154A.990 is amended to read as follows:

(1) Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be guilty of a Class C felony.

(3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a Class B felony.

(4) Any person who violates the provisions of KRS 154A.030(2) shall be guilty of a Class D felony and shall be removed from the board.

(5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) and shall be guilty of a Class D felony.

(6) Any person who violates the provisions of KRS 154A.080(3) shall be guilty of a Class D felony.

(7) Any person who violates the provisions of KRS 154A.080(4) shall be guilty of a Class A misdemeanor.

(8) Any person, including any retailer and any officers, directors, or employees of a corporate retailer, any general partner or employee of a retailer which is a partnership or joint venture, or any owner or employee of a retailer which is a sole proprietorship, who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and shall be guilty of a Class D felony.

(9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be guilty of a violation and for each subsequent offense shall be guilty of a Class B misdemeanor.

(10) Any person violating KRS 154A.160(3) is guilty of a Class D felony.

(11) Any person who knowingly provides false or intentionally misleading information to the corporation in connection with a background investigation prior to employment pursuant to KRS 154A.080(5), an application for a lottery retailer certificate under KRS 154A.400, the corporation's investigation of prospective vendors pursuant to KRS 154A.600, or any investigation by the corporation's Division of Security shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(12) Unless the corporation shall have promulgated administrative regulations governing its procurements under KRS 154A.120(1), the provisions of KRS 45A.990(1) to 45A.990***(11)***~~[(8)]~~ shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

Section 8. Section 1 of this Act takes effect July 1, 2001.

The Committee Substitute No. 1 to **HB 155** is as follows:

HB 155, AN ACT relating to public administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45A.343 TO 45A.460 IS CREATED TO READ AS FOLLOWS:

Local public agencies, excluding school districts, shall not procure construction services for capital construction projects that cost over one million dollars ($1,000,000) unless the agency develops, adopts by ordinance or regulation, and complies with a procurement code for these projects. At a minimum, the code shall provide the following:

(1) Except as provided in subsection (3) of this section, all contracts or purchases shall be awarded by competitive sealed bidding. Awards shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the invitation for bids shall set forth objective criteria to be used.

(2) Public notice of the invitation for bids shall be given at least seven (7) days prior to the date set for opening the bids. The notice shall include the time and place where the specifications may be obtained and the time and place where the bids will be opened. Information contained in submitted bids shall remain confidential until the bids are opened publicly at the time and place designated. Except as provided in subsection (6) of this section, each bid, with the name of the bidder, shall then be recorded and open to public inspection.

(3) Contracts or purchases may be awarded through competitive negotiation if:

- ***(a) Specifications cannot be made sufficiently specific to permit award on the basis of either the lowest bid price or the lowest evaluated bid price;***
- ***(b) The bids received through sealed bidding are unresponsive, unreasonable, or identical or appear to have been the result of collusion; provided that each responsible bidder is notified of the intention to negotiate, is given a***

reasonable opportunity to negotiate, and the negotiated price is lower than the lowest rejected bid of any responsible bidder;

(c) Every bid is in excess of the funds available for the purchase, and:

1. There are no additional funds available from any source to permit award to the lowest responsive and responsible bidder; and

2. The best interest of the local public agency will not permit the delay of resoliciting under revised specifications or quantities; or

(d) There is only one (1) responsive and responsible bidder.

(4) Requests for proposals under competitive negotiation shall be solicited through public notice and shall be sufficient to notify an adequate number of qualified sources to permit reasonable competition. The request for proposals shall indicate the factors to be considered in the evaluation and the relative importance of each factor. Award shall be made to the responsible offeror whose proposal is the most advantageous to the local public agency based upon the evaluation factors set forth in the request for proposals.

(5) Written or oral discussions under competitive negotiation shall be conducted with all responsible offerors reasonably susceptible of being selected for award. Discussions under subsection (3)(c) of this section shall be with the three (3), or two (2) if there are only two (2), lowest responsive and responsible bidders to the competitive sealed bidding. Discussions shall not disclose any information derived from proposals submitted by competing offerors. If discussions concerning the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in the discussions.

(6) Invitations to bid and requests for proposals shall require the bidder or offeror to identify, in the bid or proposal, or within forty-eight (48) hours after the bid or proposal is due, all subcontractors and major suppliers on which the bid or proposal relies. The local public agency shall not award a contract for any bid or proposal for which this information is not included. Local public officials or employees shall not disclose this information until the contract is awarded or until the agency rejects all bids or proposals and cancels the project.

SECTION 2. A NEW SECTION OF KRS 45A.343 TO 45A.460 IS CREATED TO READ AS FOLLOWS:

Local public officials or employees with procurement-related duties may attend training in procurement law and ethics provided by appropriate professional organizations, such as the National Institute of Governmental Purchasing or the Kentucky Public Procurement Association. Training from these organizations shall count toward the forty (40) hours of training needed for the training incentive benefit under KRS 64.5275(6) or (7).

Section 3. KRS 45A.990 is amended to read as follows:

(1) Any violation of KRS 45A.045 shall be deemed a Class D felony.

(2) Any person who violates any of the provisions of KRS 45A.325 shall be guilty of a Class D felony. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(3) Any person who violates any provisions of KRS 45A.330 to 45A.340 shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(4) Any willful violation of KRS 45A.690 to 45A.725 shall be a Class A misdemeanor.

(5) Any person who willfully violates this code ***or a code adopted under Section 1 of this Act*** shall be guilty of a Class A misdemeanor.

(6) Any employee or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a Class C felony.

(7) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employee or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a Class C felony.

(8) Criminal penalties for violations of the laws which are in existence on January 1, 1980, shall not be impaired.

(9) ***Any person who knowingly and willfully falsifies, misrepresents, conceals, or covers up, in writing or otherwise, any fact material to a decision to award or not to award a contract under KRS 45A.345 to 45A.460, including a code adopted under Section 1 of this Act shall be guilty of a Class D felony.***

(10) Any person convicted under subsection (7) or (9) of this section may be required by the contracting agency to forfeit any contract then held and shall be ineligible to receive any future contract or award from any state or local public agency for a period of five (5) years from the date of conviction.

(11) ***Any violation of KRS 45A.455(5) or of the disclosure prohibitions in KRS 45A.370(3) or subsections (2) or (5) of Section 1 of this Act shall be a Class D felony.***

(12) This section shall not apply to any officer or employee of a political subdivision, including a school district, nor to the procurement activities of any such political subdivision unless such political subdivision ***is subject to Section 1 of this Act, or*** has elected to operate under KRS 45A.345 through 45A.460.

Section 4. KRS 522.040 is amended to read as follows:

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise ***that***~~[which]~~ may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action; or

(c) Aids another to do any of the foregoing.

(2) ***A person other than a public servant is guilty of misuse of confidential information if he knowingly uses confidential information from a public servant in contemplation of an official action by a governmental unit, with the intent to:***

(a) ***Receive a pecuniary interest in any property transaction or enterprise that may be affected by such information or official action; or***

(b) ***Speculates or wagers on the basis of such information or official action.***

(3) Misuse of confidential information is a Class D felony.

Section 5. KRS 154A.990 is amended to read as follows:

(1) Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be guilty of a violation for the first offense and for each subsequent offense shall be guilty of a Class B misdemeanor.

(2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be guilty of a Class C felony.

(3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a Class B felony.

(4) Any person who violates the provisions of KRS 154A.030(2) shall be guilty of a Class D felony and shall be removed from the board.

(5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) and shall be guilty of a Class D felony.

(6) Any person who violates the provisions of KRS 154A.080(3) shall be guilty of a Class D felony.

(7) Any person who violates the provisions of KRS 154A.080(4) shall be guilty of a Class A misdemeanor.

(8) Any person, including any retailer and any officers, directors, or employees of a corporate retailer, any general partner or employee of a retailer which is a partnership or joint venture, or any owner or employee of a retailer which is a sole proprietorship, who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and shall be guilty of a Class D felony.

(9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be guilty of a violation and for each subsequent offense shall be guilty of a Class B misdemeanor.

(10) Any person violating KRS 154A.160(3) is guilty of a Class D felony.

(11) Any person who knowingly provides false or intentionally misleading information to the corporation in connection with a background investigation prior to employment pursuant to KRS 154A.080(5), an application for a lottery retailer certificate under KRS 154A.400, the corporation's investigation of prospective vendors pursuant to KRS 154A.600, or any investigation by the corporation's Division of Security shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), and shall be guilty of a Class D felony.

(12) Unless the corporation shall have promulgated administrative regulations governing its procurements under KRS 154A.120(1), the provisions of KRS 45A.990(1) to 45A.990***(11)***~~[(8)]~~ shall be deemed to apply to procurement activities conducted under this chapter which are governed by KRS Chapter 45A. If the corporation has promulgated administrative regulations governing its procurements, any person who willfully violates the administrative regulations shall be guilty of a Class A misdemeanor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Commonwealth, in connection with the procurement of construction services under this chapter, and local public agencies as defined in KRS 45A.345, in connection with the procurement of construction services whether or not under this chapter, shall not require any bidder or offeror, or any person awarded a construction contract, to apply for or obtain a performance or payment bond required or authorized by law from any particular insurance or surety company, agent, or broker.

HB 524, AN ACT relating to land use and planning, and making appropriations therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky recognizes the need for the efficient use of land, both developed land and greenspace, the need to concentrate development in a manner that reduces pollution to air, water, and land; and the need to maintain resources, both natural and fiscal, that protect the distinctive character of the Commonwealth's communities and country-side. Therefore, the General Assembly finds and declares the following goals:

(1) Land is a finite resource. It must be preserved where possible and used most efficiently; therefore, planning must be well thought out. Development in existing areas must be concentrated to avoid wasted resources and the wanton consumption of greenspace.

(2) Planning must accommodate both existing development and potential development and this planning must be coordinated on a local, regional, and state basis so that all forms of infrastructure operate efficiently and in a way that does not duplicate services, or waste services that increase costs to taxpayers because of the potential inefficiency. Among the services that must be thought out efficiently are water, sewer, capital projects, schools, recreation and open areas, transportation, firefighting, and policing. Planning must also accommodate the mixed uses of land where new ideas in residential, commercial, and greenspace may easily be embraced.

(3) Kentucky has a wealth of history and scenic vistas. This must be preserved, where possible, in order for the Commonwealth of Kentucky to maintain these gifts for our children, as it is our legacy to them. Among that which should be preserved are historic structures, which is the first element to community pride and identity; the environment, being the second element to community pride and identity from which Kentucky receives a deserved reputation; and air, water, and Kentucky's flora and fauna, which we find out is increasingly important to the proper operation of the entire web of life. Also among this wealth is a vast tradition of agriculture. Kentuckians take pride in living in a state rich with this culture, and recognize the need to preserve this all-too-quickly disappearing way of life in a way that does not penalize those who participate in the way of life, namely, the farmers.

Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural *activity*~~[use]~~" means the~~[use of a tract of at least five (5) contiguous acres for the]~~ production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants~~[, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public]~~;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general

council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into[~~ three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into~~] two (2) or more lots or parcels[~~;~~] for the purpose, whether immediate or future, of sale, lease,[~~ or~~] building development, or ***the creation of new streets***[~~if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section~~];

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***;***

(25) "Local government" means a city, county, charter county government or urban-county government;

(26) "Person" means any individual, public or private corporation, any agency or instrumentality of federal, state, or local government, or any other legal or commercial entity, or any other entity whatsoever;[~~.~~]

(27) "Scenic" denotes the composition of features that possess significant aesthetic, natural, or visual qualities in settings that are measured by the quality of being memorable, their unity, and their distinctiveness of visual impression; and

(28) "Scenic view shed" means an area visible from a highway, waterway, railway, or major hiking, bicycling, or equestrian trail that provides views from mountains or ridges, or views over water, or views across expanses of land, such as, but not limited to, farmland and woodlands.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

For planning units in existence on the effective date of this Act, no later than six (6) months after the effective date of this Act, or for planning units formed after the effective date of this Act, concurrently with their creation, the legislative body for each planning unit shall prepare and adopt, or revise, regulations to provide:

(1) That all meetings of any legislative body or agency relating to planning or zoning shall be open to the public, and that any aspect of the meeting that is, under state or federal law, allowed to be held in closed session shall be strictly limited as authorized by law; and that detailed and accurate minutes of all open and closed meetings shall be recorded and made available in written form for public inspection;

(2) That all persons attending and wishing to make comment before these administrative or political bodies shall be accorded a time period sufficient to allow communication to that body, and shall not be arbitrarily limited;

(3) For balanced representation in the composition of all administrative or advisory bodies. In making appointments to those bodies, every effort shall be made to encourage diversity and participation by members of the public;

(4) That barriers to public involvement are minimized, including cultural, language, and physical barriers, and that the processes are fair, open, and timely, and the judgments predictable and replicable;

(5) That if licenses, permits, or authorizations are made by fiscal court or any agency thereof or under the jurisdiction

thereof, sufficient inspections shall be made and documented to assure compliance with the license, permit, authorization, and any conditions thereof. If a citizen initiates a request for inspection, the request and all action taken shall be recorded. If the information provided would, if true, constitute a violation of the permit, license, or authorization, an inspection shall be made within ten (10) days after receipt of the request. If the information, if true, could present an imminent harm, an inspection shall be made immediately in response to the request. Penalties assessed for violations shall be sufficient to remove any economic benefit derived from the failure to comply, and shall consider the degree of fault, the compliance history, whether the party to whom the violation is issued has timely acted to abate the violation, and the severity of the violation;

(6) That ex parte communication between parties to zoning and land use cases, and the agency decision-makers and elected officials who will hear the case on review, is strictly prohibited;

(7) That provisions for requesting local and evening hearings shall be reviewed to determine whether the requirements for signatures are too onerous, and to determine which categories of land use, zoning and conditional use permits, approvals and modifications shall be subject to automatic scheduling of local hearings. All zoning, adjustment, and planning meetings, including interagency meetings, and hearings shall be held in neutral venues with adequate available free parking, and meeting locations and times shall be changed when necessary to encourage participation from all areas of the community;

(8) That alternative dispute resolution provisions shall be incorporated into the zoning and planning process to encourage communication, flexibility, and consensus in land changes, rather than litigation;

(9) That all parties who submit written or verbal testimony in a proceeding to approve a request for a conditional use permit or zoning or land use change shall receive special notice and be accorded an opportunity to be heard if any request is made to alter, remove, or vary any of the conditions, binding elements, or provisions of the approval;

(10) That an Office of Neighborhood Advocacy shall be established to monitor land use, zoning, capital investment, transportation, and other planning processes in order to assure that the processes are fair and open. The office shall be charged with establishing lists of interested parties who wish to be notified of governmental actions that affect their neighborhood, or that have county-wide effect. The neighborhood advocate shall be charged with monitoring the land use, capital investment, transportation, and other local environmental and community programs and processes, and notifying interested parties when proposals are being evaluated that may be of interest; and is further charged with representing neighborhood interests in those cases where the advocate believes the public interest warrants direct involvement; and

(11) That adequate notice of proposals to be evaluated at a hearing by a planning or zoning body shall be given to interested parties, and that after each public hearing, a decision shall be rendered on the application that was the subject of the public hearing, approving or disapproving the request for rezoning.

SECTION 4. A NEW SECTION OF KRS 100.183 TO 100.197 IS CREATED TO READ AS FOLLOWS:

(1) Each comprehensive plan shall, in addition to the elements required in Section 5 of this Act, include a designation of one (1) or more full-service areas within the planning commission's jurisdiction where urban development already exists or is expected to occur. A city, county, urban-county, charter county, or special district may create, maintain, extend, and upgrade a full range of utilities, infrastructure, and other centralized services, within the boundaries of this area. The designation of these areas shall be based upon the following factors:

(a) The probability of growth in specified parcels of land over a twenty (20) year period;

(b) A demonstration that there will be available throughout the area within the five (5) year plan cycle a full range of government services in a coordinated fashion, which shall include, but not necessarily be limited to, the provision of water facilities, storm and sanitary sewer facilities, municipal electric utilities, police protection, fire protection, schools, recreation and open space areas, and transportation;

(c) The effects on the compatibility of the area designation with environmental conditions and systems including air and water quality, water resources, historic areas, transportation patterns, agriculture, forests, hydric soils and hydric wetlands, recreational areas, and scenic quality and fauna.

(2) No two (2) separate full-service areas may occupy the same parcel of land. If a planning commission determines that a particular parcel of land that is in one (1) full-service area within its jurisdiction may be better served within another full-service area within its same jurisdiction, it may negotiate the changing of jurisdiction.

(3) If one (1) planning commission determines that a particular parcel of land that is not within its jurisdiction may be better served within another full-service area within another planning commission's jurisdiction, the two (2) separate planning commissions may negotiate the changing of jurisdiction. No change shall be executed without the approval of both planning commissions.

(4) The land in a county that is not within a full-service area created pursuant to subsections (1) to (6) of this section shall be designated a limited-service area. The designation of these areas shall be based upon the following factors:

(a) 1. The area shall not be composed of all or a portion of an area designated as a full-service area; and

2. The area will best serve the public by being preserved for family or prime farmland, open space, hydric soils, hydric wetland, forest, recreation, or wildlife habitat; or

(b) Full service designation is not compatible with the environmental conditions and systems of the area.

(5) No local government or special district as defined in KRS 65.060 shall extend urban levels of sewer or water facilities to serve any currently unserved parcels of land within a limited-service area.

(6) Each planning commission existing on the effective date of this Act shall, as a part of its next comprehensive plan five (5) year update, designate one (1) or more full-service areas within that plan. The planning commission shall, prior to designation of any full-service areas, consult with all cities located within the boundaries of the area subject to the comprehensive plan.

(7) Each planning commission formed after the effective date of this Act shall include the designation of one (1) or more full-service areas with its initial comprehensive plan. The planning commission shall, prior to designation of any full-service areas, consult with all cities located within the boundaries of the area subject to the comprehensive plan.

(8) Each planning commission shall consider amending, as necessary, each of its full-service areas at least once every five (5) years. The planning commission shall, prior to amendment of the boundaries of any full-service areas, consult with all cities located within the boundaries of the area subject to the comprehensive plan.

Section 5. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;~~[and]~~

(5) A comprehensive growth policy element that:

(a) Provides for the most efficient and appropriate use of land, limiting unnecessary growth;

(b) Provides for the mixed uses of developments and land;

(c) Maximizes the efficient design, use, and maintenance of government services, that shall include, but not be limited to:

1. Utilities;

2. Transportation; and

3. Public protection services such as, but not limited to fire and police protection;

(d) Preserves community identity and quality of life through the preservation of historic, scenic, and natural resources and open spaces;

(e) Protects air and water quality;

(f) Encourages infill and revitalization in existing developed areas of the community;

(g) Recognizes that some sites within the planning commission's jurisdiction are not suitable for development, including, but not necessarily being limited to:

1. Degree of land slope;

2. Presence of karst features;

3. Floodplains;

4. Hydric soils;

5. Hydric wetlands;

6. Critical habitats;

7. View sheds; and

(h) Examines the possibility of directing development to facilitate alternative modes of transportation, including, but not necessarily being limited to bicycles, mass transit, and pedestrian modes.

Among these additional elements may be a site selection element for the placement of neo-traditional neighborhoods, as specified in subsection (4) of Section 20 of this Act.

(6)~~[(5)]~~The comprehensive plan may include any additional elements~~[such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation,]~~ and~~[other]~~ programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 6. KRS 100.197 is amended to read as follows:

(1) *(a)* All elements of the comprehensive plan shall be prepared with a view towards carrying out the *local planning unit's* statement of goals and objectives*, and the regional planning council's and state planning committee's transportation, infrastructure, and land use plans*.

(b) Before the planning commission adopts the elements, it shall submit its proposed comprehensive plan to the regional planning council which shall then review the comprehensive plan for compatibility with the transportation, infrastructure, and land use plans for the district which the regional planning council adopted under subsection (5) of Section 7 of this Act. If the comprehensive plan is compatible with the transportation, infrastructure, and land use plans adopted by the regional planning council, and the regional planning council makes no recommendations for change, then it shall forward the proposed comprehensive plan to the state planning committee formed under the provisions of KRS 147.075.

(c) If the regional planning council makes recommendations for changes to the proposed comprehensive plan, it shall send those recommendations back to the local planning commission. It shall also send its recommendations to the state planning committee. The local planning commission need not incorporate the recommendations returned to it from the regional planning council~~[The various elements may be adopted as they are completed, or as a whole when all have been completed]~~.

(d) If the regional planning council does not take any action on a comprehensive plan submitted to it by a planning commission within sixty (60) days of its submission, then the planning commission shall forward its comprehensive plan to the state planning committee.

(e) Once the planning commission has afforded the regional planning commission an opportunity to make recommendations regarding the planning commission's comprehensive plan, or the sixty (60) day time period has elapsed, the planning commission shall hold a public hearing and adopt the elements.

(f) The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after a public hearing before the planning commission.

(2) *(a)* The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review.

(b) Changes proposed to be adopted by the planning commission under paragraph (a) of this subsection shall be submitted to the regional planning council and the state planning committee in the same manner as in subsection (1) of this section.

(c) No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in subsection (2) of KRS 100.193. *One (1) copy of each element of the comprehensive plan shall also be sent to both the regional planning council and the state planning committee.*

(4) No later than six (6) months after the adoption or readoption of, or amendment to, the comprehensive plan, the zoning and land subdivision regulations shall be revised as necessary to assure conformity with the goals, objectives, and elements of the plan, and any decisions reviewing a change in zoning or a proposed subdivision of land shall be consistent with the comprehensive plan.

(5) Any person may commence a civil action against the state, region, local government, or planning commission in regard to any part or all of a comprehensive plan proposed by the state, region, local government, or planning commission. The filing of this civil action itself shall not stop the implementation of the plan.

Section 7. KRS 147A.125 is amended to read as follows:

(1) ~~[Except as set forth in subsection (8) of this section,]~~Each area development district shall establish a regional planning council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff. ***One (1) additional at-large appointment shall be made by the board of the area development district for every five (5) appointed representatives, or additional fraction thereof. The at-large appointee shall be a citizen who is not an elected or appointed official.***

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice president. The vice president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council ***shall***~~[may]~~ review comprehensive plans of planning units within the district for regional impact, ***shall***~~[may]~~ develop regional transportation, infrastructure, and land use plans for the district, and ***shall***~~[may]~~ make recommendations regarding the regional impact of proposed comprehensive plans and plan amendments of planning units within the district ***when the planning units' proposed comprehensive plans and plan amendments do not meet the regional transportation, infrastructure, and land use plans for the district. If the planning units' proposed comprehensive plans and plan amendments meet the regional transportation, infrastructure, and land use plans for the district, the council shall forward the proposed comprehensive plans and plan amendments to the state planning committee under KRS 147.075***.

(6) ***The area development district shall ensure that its regional transportation, infrastructure, and land use plans:***

- ***(a) Provide for the most efficient and appropriate use of land, limiting unnecessary growth;***
- ***(b) Provide for the mixed uses of developments and land;***
- ***(c) Maximize the efficient design, use, and maintenance of regional government services, which shall include, but not be limited to:***
  - ***1. Utilities;***
  - ***2. Transportation; and***
  - ***3. Public protection services such as, but not limited to, fire and police protection;***
- ***(d) Preserve community identity and quality of life through the preservation of historic, scenic, and natural resources and open spaces;***
- ***(e) Protect air and water quality;***
- ***(f) Encourage infill and revitalization in existing developed areas of the region;***
- ***(g) Recognize that some sites within the area development district's jurisdiction are not suitable for development, including, but not limited to:***
  - ***1. Degree of land slope;***
  - ***2. Presence of karst features;***
  - ***3. Floodplains and ridgelines;***
  - ***4. Hydric soils;***
  - ***5. Hydric wetlands; and***
  - ***6. Critical habitats; and***
- ***(h) Examine the possibility of directing regional development to facilitate alternative modes of transportation, including, but not limited to:***
  - ***1. Bicycles;***
  - ***2. Mass transit; and***
  - ***3. Pedestrian modes.***

(7) The area development district shall submit its regional transportation, infrastructure, and land use plans to the state

planning committee for review before adopting or amending its plans. The state planning committee shall either approve the plans or make recommendations to coordinate its plans with the regional planning councils' plans and the regional planning commission may make the recommended changes.

(8) The area development district shall provide staff and technical support as requested by the council. Existing land use planning services and functions of the area development district shall be placed under the direction and control of the council.

(9)[~~(7)~~]The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

(10) As used in this section, "scenic" denotes the composition of features that possess significant aesthetic, natural, or visual qualities in settings that are measured by the quality of being memorable, their unity, and their distinctiveness of visual impression.

[~~(8) The requirements of this section shall not apply to any area development district in which fifty percent (50%) or more of the population resides in cities or counties which participate in a regional planning authority, council of governments, or other agency which is authorized to perform regional planning functions as described in this section.~~]

Section 8. KRS 147.070 is amended to read as follows:

(1) The Governor's Cabinet shall:

(a) Prepare and adopt plans for complete systems of *scenically sensitive* state or regional highways, expressways, *and* parkways, *as well as preparing and adopting plans for complete systems of* parks, water supply and forest reservations, airways and air terminals, and other things of significance in furthering a well balanced development of the state.

(b) Advise with state agencies, local authorities and individuals with a view to the coordination of all physical development plans that are related to state activities.

(c) Make surveys of rural land utilization with a view to the determination of the areas suitable for field crops, reforestation, watershed protection, recreation and urban expansion.

(d) Draft for submission to the General Assembly such regulations affecting the use and development of property as are deemed reasonable and necessary for orderly and coordinated developments preserving the integrity of officially approved plans or conserving the natural resources of the state.

(e) Collect and publish information relating to welfare problems affecting the people of the state and make such recommendations on those problems to the General Assembly as may seem advisable and proper.

(f) Cooperate with planning boards of other states and the national planning board.

(g) Act as a research broker in assisting state government to meet its research needs and to perform such functions also upon request from local governments.

(h) Coordinate with, and review proposed comprehensive plans and plan amendments from, regional planning councils through the state planning committee to ensure that their plans work in concert with the state development plans adopted under paragraph (a) of this subsection to:

1. Provide for the most efficient and appropriate use of land, limiting unnecessary growth;

2. Provide for the mixed uses of developments and land;

3. Maximize the efficient design, use, and maintenance of government services, that shall include, but not be limited to, any state-run utilities, transportation, and public protection services such as, but not limited to, police protection;

4. Preserve community identity and quality of life through the preservation of historic, scenic, and natural resources and open spaces;

5. Protect air and water quality;

6. Encourage infill and revitalization in existing developed areas of the Commonwealth;

7. Recognize that some sites within the state are not suitable for development, including, but not limited to:

a. Degree of land slope;

b. Presence of karst features;

c. Floodplains and ridgelines;

d. Hydric soils;

e. Hydric wetlands;

f. Critical habitats;

g. Scenic landscapes; and

8. Examine the possibility of directing development to facilitate alternative modes of transportation, *including, but not limited to:*

a. Bicycles;

b. Mass transit; and

c. Pedestrian modes.

(2) The cabinet shall have such powers as are necessary to promote state planning and to enable it to carry out the purposes of KRS 147.070 to 147.100.

(3) All public officials shall upon request furnish to the Governor's Cabinet, within a reasonable time, such available information as it may require for its work. The members and employees of the cabinet may, in the performance of their functions, enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon.

(4) Every state officer or agency, before requesting legislative or executive approval of a plan or authorization of an appropriation for a major public improvement related to or affected by any general plan prepared under authority of KRS 147.070 to 147.100, or before requesting a change of use or disposition of real property that is owned by the state or in which the state has an interest, shall make a written request to the Governor's Cabinet for its recommendations, and shall give the cabinet a reasonable opportunity to study and make its recommendations thereon.

(5) The state planning committee shall maintain a current file of all planning commissions' comprehensive plans and plan amendments, and all regional planning councils' transportation, infrastructure, and land use plans and plan amendments. The state planning committee shall allow inspection of these plans during normal business hours.

(6) As used in this section:

(a) "Scenic" denotes the composition of features that posses significant aesthetic, natural, or visual qualities in settings that are measured by the quality of being memorable, their unity, and their distinctiveness of visual impression; and

(b) "Landscape" means an area defined by topography, vegetation, hydrology, native plants and animals, and historic land-use patterns including human-made development.

SECTION 9. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 shall receive extra consideration on their applications to the following programs by the administering agencies:

(1) Community Development Block Grant Programs administered by the Department for Local Government;

(2) Community Development Block Grant Economic Development - Nontraditional, administered by the Department for Local Government;

(3) Community Development Block Grant Economic Development - Traditional, administered by the Department for Local Government;

(4) Community Development Block Grant Microenterprise Development, administered by the Department for Local Government;

(5) Kentucky Main Street, administered by the Kentucky Heritage Council;

(6) Land and Water Conservation Fund, administered by the Department for Local Government;

(7) Public Library Construction, administered by the Kentucky Department for Libraries and Archives;

(8) Renovation Grants, administered by the Kentucky Department for Libraries and Archives;

(9) Affordable Housing Trust Fund, administered by the Kentucky Housing Corporation;

(10) Community Development Block Grant - Housing, administered by the Department for Local Government;

(11) Continuum of Care, administered by the Kentucky Housing Corporation;

(12) Home Investment Partnerships Program, administered by the Kentucky Housing Corporation;

(13) Kentucky Appalachian Housing Program, administered by the Kentucky Housing Corporation;

(14) Appalachian Regional Commission, administered by the Department for Local Government;

(15) Community Development Block Grant - Public Facilities, administered by the Department for Local Government;

(16) Transportation Enhancement Program (ISTEA), administered by the Kentucky Transportation Cabinet;

(17) Certified Local Government, administered by the Kentucky Heritage Council;

(18) Federal Historic Preservation Fund Grants, administered by the Kentucky Heritage Council;

(19) Local Law Enforcement Block Grant, administered by the Justice Cabinet;

(20) Local Records Grant, administered by the Kentucky Department for Libraries and Archives; and

(21) State Restoration Grants, administered by the Kentucky Heritage Council.

Section 10. KRS 147A.002 is amended to read as follows:

(1) The Department for Local Government shall be headed by a commissioner, and shall be divided for administrative purposes into the Division of Community Development and such other divisions as the commissioner, with the approval of the Governor, determines. The Division of Community Development shall be responsible for the administration of Title I of the Housing and Community Development Act of 1974 as amended through 1981, which includes the community block grant program and the 107 technical assistance program. ***The Division of Community Development, when awarding community development block grants under KRS 45.350 to 45.359 to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.***

(2) The commissioner, with the approval of the Governor, shall appoint necessary deputies, assistants, attorneys, and other employees and shall fix their compensation and authorize payment of their expenses according to law.

(3) The Department, when making awards under its jurisdiction listed in Section 9 of this Act that are not part of the community development block grant program to local governments, shall follow the same preference schedule for local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 provided in subsection (1) of this section.

Section 11. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

  (a) Development for the State Historic Preservation Program;

  (b) Direction of a comprehensive statewide survey of historic properties;

  (c) Nomination of historic properties to the National Register of Historic Places;

  (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

  (e) Cooperation in the integration of historic preservation planning with all levels of planning;

  (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

  (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

  (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

  (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

  (j) Development and operation of a program of public information and education concerning the preservation program;

  (k) Administration of the grants program within the state; and

  (l) Preparation and maintenance of a comprehensive statewide historic preservation plan.

(8) The Kentucky Heritage Council, when awarding grants to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Kentucky Heritage Council shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.

Section 12. KRS 171.150 is amended to read as follows:

(1) The Department for Libraries and Archives may accept and administer any money appropriated or granted to it, in addition to appropriations to it out of the general fund, for providing, improving, and equalizing public library service, library service to state institutions, and cooperative systems of library service, including cooperative arrangements with public school, college, university, and special libraries in Kentucky, by the federal government or by the state or any other agencies.

(2) The Department for Libraries and Archives, when awarding grants to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Department for Libraries and Archives shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.

Section 13. KRS 198A.720 is amended to read as follows:

(1) The corporation shall issue a public notice to eligible recipients of the availability of trust funds at least twice each calendar year and provide for reasonable opportunity for the filing of applications.

(2) The corporation shall approve or deny properly submitted and completed applications within sixty (60) days of their receipt.

(3) The corporation shall grant as many applications as will effectively use available funds.

(4) The corporation shall grant or deny applications by ranking the application's competitively using criteria established by the board of directors of the corporation. Applications shall receive the following priority rankings:

  (a) Applications for projects submitted by nonprofit organizations or local governments for new construction for families shall receive first priority funding;

  (b) Applications for projects using existing privately-owned housing stock, including stock purchased by nonprofit public development authorities, shall receive second priority funding;

  (c) Applications for projects using existing publicly-owned housing stock shall receive third priority funding; and

  (d) Applications from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single room occupancy units shall receive fourth priority funding.

(5) ***The Kentucky Housing Corporation, when awarding grants from the affordable housing trust fund to local***

governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The priority funding enumerated in paragraphs (a) to (d) of subsection (4) of this section shall continue to apply once this priority has been satisfied.

(6) The corporation shall limit funds to be used for administrative costs to no more than five percent (5%) of available funds, and shall disapprove any project in which more than five percent (5%) of available funds shall be used for administrative costs.

(7)~~[(6)]~~The corporation shall require at least forty percent (40%) of all funds received to be used for rural areas of the Commonwealth, excluding the following areas: Ashland, Bowling Green, Covington, Henderson, Hopkinsville, Jefferson County, Lexington-Fayette County, Louisville, Owensboro, and Paducah.

(8)~~[(7)]~~Funds targeted under this section that are not expended or set-aside within twenty-four (24) months from allocation may be reallocated in nontargeted communities for very low-income persons. The corporation may extend the twenty-four (24) month period for good cause; however, an extension shall not exceed an additional twelve (12) month period.

(9)~~[(8)]~~The corporation shall provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low-income persons. The corporation may contract with nonprofit organizations to provide the technical assistance required by this subsection.

(10)~~[(9)]~~ The corporation shall provide or contract for the following services:

(a) Financial planning and packaging for housing projects including alternative ownership programs and bridge financing;

(b) Project design, architectural planning, siting, and compliance with planning requirements;

(c) Securing matching resources for project development;

(d) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low rise-multifamily projects, or creative local planning;

(e) Coordination with local planning, economic development, environmental, technical assistance, and recreational activities;

(f) Construction and material management; and

(g) Project maintenance and management.

Section 14. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

(29) The Kentucky Housing Corporation, when awarding grants to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Kentucky Housing Corporation shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.

SECTION 15. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet or any of its departments, when awarding grants to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Transportation Cabinet, or any of its departments, shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.

Section 16. KRS 15A.150 is amended to read as follows:

(1) Except as otherwise provided by law, the cabinet shall administer all state programs and all state and federally funded grant programs related to criminal justice.

(2) The Justice Cabinet, when awarding grants to local governments as specified in Section 9 of this Act, shall give preference to local governments that have adopted all the required elements of their comprehensive plans, including land-use management regulations and subdivision-management regulations, in accordance with the provisions of KRS Chapter 100 over local governments that have not done so. The Justice Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A in order to administer the awarding of this preference.

Section 17. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments;~~[and]~~

(m) The urban development office***; and***

(n) Local planning commissions and planning officials.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

Section 18. KRS 147A.090 is amended to read as follows:

Each district board of directors shall have the power, duty, and authority to:

(1) Establish such functional advisory committees as may be necessary and advisable. These functional advisory committees shall be organized to meet such guidelines as may be required for federal or state assistance.

(2) Conduct the necessary research and studies and coordinate and cooperate with all appropriate groups and agencies in order to develop, and adopt and revise, when necessary, a district development plan or series of plans, including, but not limited to, the following districtwide plan elements: goals and objectives; water and sewer; land-use; and open space and recreation. Such plans shall serve as a general guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships.

(3) Prepare annually a report of its activities to the cities and counties within the district, the legislature, and the Governor. The board shall make copies of the report available to members of the public within the district.

(4) Employ at a minimum two (2) planners who are certified by a nationally accredited certification program. The planners shall assist each of the planning units under the jurisdiction of the area development district in their planning duties, as well as other duties that may be prescribed by the planning board of directors so long as the duties do not interfere with the planners' assistance of the planning units.

Section 19. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, ***scenic districts and corridors,*** and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, ***places having scenic value,*** flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that~~[land which is used for]~~ agricultural ***activities, as defined in Section 2 of this Act, occurring on tracts of land greater than ten (10) acres in size are not prohibited. Nothing contained in this section shall be construed as limiting the ability of cities and counties to regulate other uses or activities including, but not limited to, single family residential dwellings***~~[purposes shall have no regulations except that:~~

~~(a) Setback lines may be required for the protection of existing and proposed streets and highways;~~

~~(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and~~

~~(c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy]~~;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual ***and aesthetic*** requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced.

Section 20. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact interim zoning or other kinds of growth management regulations which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood, or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public facilities, schools, public grounds, historical districts, central business districts, prime agricultural land, and other natural ***and scenic*** resources; to regulate the use of sludge from water and waste water treatment facilities in projects to improve soil quality; and to protect other specific areas of the planning unit which need special protection by the planning unit.

(3) Land use and zoning regulations may include the designation of specifically defined areas to be known as urban residential zones, in which:

(a) The majority of the structures were in use prior to November 22, 1926; and

(b) 1. The entire area embodies the distinctive characteristics of a type, period, or method of construction; or

2. The entire area represents a significant and distinguishable entity whose components may lack individual distinction.

The usage of structures within an urban residential zone may be regulated on a structure-by-structure basis, permitting a mixture of uses in the zone, including single-family and multi-family residential, retail, and service establishments, which stabilizes and protects the urban residential character of the area. The regulation of the usage of any structure shall be guided by the architecture, size, or traditional use of the building.

(4) The communities' comprehensive plan and land use management regulations may include the designation of an area or areas to be developed as neo-traditional neighborhoods. These plans and regulations shall conform to the following general design guidelines:

(a) The neighborhood shall be designed in a manner to preserve the environment through land conservation and transit. It shall connect seamlessly with its surroundings. The neighborhood shall be of a scale and detail that encourages pedestrian activity;

(b) The neighborhood design shall encourage the use of natural surroundings by preserving and maintaining water features, trees, topography, and natural and scenic corridors;

(c) The neighborhood shall be designed to be as self-sufficient as possible and shall provide a variety of easily accessible activities. It shall have a center containing convenience, retail, and transit facilities, as well as having high-density housing. The buildings shall be grouped together based upon their physical compatibility to create harmonious streetscapes.

(d) The neighborhood shall be organized around its public buildings and open spaces. It shall contain a formal public space at its center. The neighborhood's design shall ensure that elementary schools, daycare, and recreational facilities are small and abundant, to ensure pedestrian accessibility. The neighborhood design shall locate small playgrounds within easy walking distance of most residences;

(e) The neighborhood shall be designed to be served by thoroughfares of a continuous network of small blocks in order to distribute traffic more evenly. Every street in the network shall serve multiple functions, with none relegated strictly to the moving of vehicles;

(f) The neighborhood shall be designed to contain a wide range of street types designed as environments equitable for the pedestrian, bicycle, and the automobile. The streets shall be designed and constructed to keep vehicular speeds at a minimum in order to be safe and pleasant to the pedestrian; and

(g) The neighborhood shall be designed to contain a varied mix of land uses that shall include but not be limited to basic commercial sites, housing of varied styles and affordability, and workplaces.

Section 21. KRS 100.324 is amended to read as follows:

(1) *In conjunction with the adoption or revision of the comprehensive plan, the planning commission, after consultation with the utilities providing water, sewer, gas, and electric services within the community, shall adopt and update a plan identifying that level of utility services consistent with the designated level of service, for those areas within the jurisdiction of the planning unit.*

(2) The Public Service Commission, in reviewing any application by a utility for a certificate of necessity and convenience that proposes construction or extension of water, sanitary sewer, gas, or electric utility service within an area that is within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with KRS Chapter 100, shall consider the plan described in subsection (1) of this section and shall not approve a request providing for utility service provision, extension, or expansion at a level of service inconsistent with the designated level of service for the area under that plan. After the date of enactment, and prior to the adoption of the plan by the planning commission, the Public Service Commission shall consult with the planning commission to determine whether the proposed level of service is consistent with the planning and zoning classifications of the comprehensive plan for the area.

(3) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987 and *subsections (1), (2) and (7)*[~~subsection (5)~~] of this section, or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(4)[~~(2)~~]The nonservice facilities excluded in subsection *(3)*[~~(1)~~] of this section must be in accordance with the zoning regulations.

(5)[~~(3)~~]Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(6)[~~(4)~~]Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by

rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

(7)~~[(5)]~~Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement with the comprehensive plan and locally-adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally-adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally-adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.

Section 22. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. ***The Finance and Administration Cabinet shall not purchase or otherwise acquire any real property and subsequently use that property for a purpose that is in contravention to the use prescribed for that parcel of land by the local comprehensive plan established by a local government under KRS Chapter 100.*** Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;
(b) A package system commonly referred to as "turnkey";
(c) Phase bidding commonly referred to as "fast track"; or
(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a

thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 23. KRS 278.650 is amended to read as follows:

(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324*(7)*~~[(5)]~~ has expired, whichever comes first.

(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.

(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.

(4) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located outside the area of a county containing a city of the first class, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

Section 24. There is appropriated $1,000,000 from the general fund in the State Treasury for each fiscal year of the 2000-2002 biennium to be allocated for the purpose of hiring a minimum of thirty certified planners to serve each of the fifteen area development districts established under KRS 147A.050 pursuant to subsection (4) of Section 18 of this Act.

The Committee Substitute No. 1 to **HB 524** is as follows:

HB 524, AN ACT relating to land use and planning, and making appropriations therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky recognizes the need for the efficient use of land, both developed land and greenspace, the need to concentrate development in a manner that reduces pollution to air, water, and land; and the need to maintain resources, both natural and fiscal, that protect the distinctive character of the Commonwealth's communities and country-side. Therefore, the General Assembly finds and declares the following goals:

(1) Land is a finite resource. It must be preserved where possible and used most efficiently; therefore, planning must be well thought out. Development in existing areas must be concentrated to avoid wasted resources and the wanton consumption of greenspace.

(2) Planning must accommodate both existing development and potential development and this planning must be coordinated on a local, regional, and state basis so that all forms of infrastructure operate efficiently and in a way that does not duplicate services, or waste services that increase costs to taxpayers because of the potential inefficiency. Among the services that must be thought out efficiently are water, sewer, capital projects, schools, recreation and open areas, transportation, firefighting, and policing. Planning must also accommodate the mixed uses of land where new ideas in residential, commercial, and greenspace may easily be embraced.

(3) Kentucky has a wealth of history and scenic vistas. This must be preserved, where possible, in order for the Commonwealth of Kentucky to maintain these gifts for our children, as it is our legacy to them. Among that which should be preserved are historic structures, which is the first element to community pride and identity; the environment, being the second element to community pride and identity from which Kentucky receives a deserved reputation; and air, water, and Kentucky's flora and fauna, which we find out is increasingly important to the proper operation of the entire web of life. Also among this wealth is a vast tradition of agriculture. Kentuckians take pride in living in a state rich with this culture, and recognize the need to preserve this all-too-quickly disappearing way of life in a way that does not penalize those who participate in the way of life, namely, the farmers.

Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural ***activity***[~~use~~]" means the[~~ use of a tract of at least five (5) contiguous acres for the~~] production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way ***except easements granted for agricultural purposes***;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into[~~ three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into~~] two (2) or more lots or parcels[~~;~~] for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural ***activity***[~~use~~] and not involving a new street shall not be deemed a subdivision. The term includes

resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;~~[and]~~

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247*;*

(25) "Local government" means a city, county, charter county government or urban-county government;

(26) "Person" means any individual, public or private corporation, any agency or instrumentality of federal, state, or local government, or any other legal or commercial entity, or any other entity whatsoever;

SECTION 3. A NEW SECTION OF KRS 100.183 TO 100.197 IS CREATED TO READ AS FOLLOWS:

(1) Each comprehensive plan shall, in addition to the elements required in Section 4 of this Act, include a designation of one (1) or more coordinated service areas within the planning commission's jurisdiction where urban development already exists or is expected to occur. A city, county, urban-county, charter county, or special district may create, maintain, extend, and upgrade a full range of utilities, infrastructure, and other centralized services, within this area. The designation of these areas shall be based upon the following factors:

(a) The probability of growth in specified parcels of land over a twenty (20) year period;

(b) Identification within the plan that there will be the intention to provide throughout the area within the twenty (20) year plan cycle a full range of government services in a coordinated fashion, which shall include, but not necessarily be limited to, the provision of water facilities, storm and sanitary sewer facilities, municipal electric utilities, police protection, fire protection, schools, recreation and open space areas, and transportation;

(c) The effects on the compatibility of the area designation with environmental conditions and systems including air and water quality, water resources, historic areas, transportation patterns, agriculture, forests, hydric soils and hydric wetlands, recreational areas, and fauna.

(2) No two (2) separate coordinated service areas may occupy the same parcel of land. If a planning commission determines that a particular parcel of land that is in one (1) coordinated service area within its jurisdiction may be better served within another coordinated service area within its same jurisdiction, it may negotiate the changing of jurisdiction with the approval of the legislative bodies of the local governments having jurisdiction over the parcel of land.

(3) If one (1) planning commission determines that a particular parcel of land that is not within its jurisdiction may be better served within another coordinated service area within another planning commission's jurisdiction, the two (2) separate planning commissions may negotiate the changing of jurisdiction with the approval of the legislative bodies of the local governments having jurisdiction over the parcel of land. No change shall be executed without the approval of both planning commissions.

(4) Each planning commission existing on the effective date of this Act shall, as a part of its next comprehensive plan five (5) year update, designate one (1) or more coordinated service areas within that plan. The planning commission shall, prior to designation of any coordinated service areas, consult with all the legislative bodies of the local governments located within the area subject to the comprehensive plan. Once the planning commission has designated the coordinated service area, it shall submit that designation to the legislative bodies of the local governments having jurisdiction within the jurisdiction of the planning commission for final approval. The legislative bodies shall give their approval or disapproval within forty-five (45) days of submission. No action by a legislative body within that time shall be deemed approval of that legislative body. If a legislative body disapproves the designation of the coordinated service area, it shall state the reasons, in writing, to the planning commission for that disapproval, and the local legislative bodies and the planning commission shall, together, negotiate the compromised designation for the coordinated service area within sixty (60) days of the submission of the disapproval. A planning commission currently in the process of updating its comprehensive plan on the effective date of this Act, and that has not yet adopted the plan, shall not be required to comply with this section until the next following five (5) year update.

(5) Each planning commission formed after the effective date of this Act shall include the designation of one (1) or more coordinated service areas with its initial comprehensive plan. The planning commission shall, prior to designation of any coordinated service areas, consult with all the legislative bodies of the local governments located within the area subject to the comprehensive plan. Once the planning commission has designated the coordinated service area, it shall submit that designation to the legislative bodies of the local governments having jurisdiction within the jurisdiction of the planning commission for final approval. The legislative bodies shall give their approval or disapproval within forty-five (45) days of submission. No action by a legislative body within that time shall be deemed approval of that legislative body. If a legislative body disapproves the designation of the coordinated service area, it shall state the reasons, in writing, to the planning commission for that disapproval, and the local legislative bodies and the planning commission shall, together, negotiate the compromised designation for the coordinated service area within sixty (60)

days of the submission of the disapproval.

(6) Each planning commission shall consider amending, as necessary, each of its coordinated service areas at least once every five (5) years, beginning at its next comprehensive plan five (5) year update cycle beginning after the effective date of this Act. The planning commission shall, prior to amendment of any coordinated service areas, consult with all the legislative bodies of the local governments located within the area subject to the comprehensive plan. Once the planning commission has designated the coordinated service area, it shall submit that designation to the legislative bodies of the local governments having jurisdiction within the jurisdiction of the planning commission for final approval. The legislative bodies shall give their approval or disapproval within forty-five (45) days of submission. No action by a legislative body within that time shall be deemed approval of that legislative body. If a legislative body disapproves the designation of the coordinated service area, it shall state the reasons, in writing, to the planning commission for that disapproval, and the local legislative bodies and the planning commission shall, together, negotiate the compromised designation for the coordinated service area within sixty (60) days of the submission of the disapproval.

Section 4. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;~~[and]~~

(5) A comprehensive growth policy element that:

- ***(a) Provides for the most efficient and appropriate use of land, limiting unnecessary growth;***
- ***(b) Provides for the mixed uses of developments and land;***
- ***(c) Maximizes the efficient design, use, and maintenance of government services, that shall include, but not be limited to:***
  - ***1. Utilities;***
  - ***2. Transportation; and***
  - ***3. Public protection services such as, but not limited to fire and police protection;***
- ***(d) Preserves community identity and quality of life through the preservation of historic, and natural resources and open spaces;***
- ***(e) Protects air and water quality;***
- ***(f) Encourages infill and revitalization in existing developed areas of the community;***
- ***(g) Recognizes that some sites within the planning commission's jurisdiction have limitations for development, including, but not necessarily being limited to:***
  - ***1. Degree of land slope;***
  - ***2. Presence of karst features;***
  - ***3. Floodplains;***
  - ***4. Hydric soils;***
  - ***5. Hydric wetlands;***
  - ***6. Critical habitats; and***
- ***(h) Examines the possibility of directing development to facilitate alternative modes of transportation, including, but not necessarily being limited to bicycles, mass transit, and pedestrian modes.***

Among these additional elements may be a site selection element for the placement of neo-traditional neighborhoods, as specified in subsection (4) of Section 11 of this Act.

(6)~~[(5)]~~The comprehensive plan may include any additional elements~~[such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation,]~~ and~~[other]~~ programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 5. KRS 100.197 is amended to read as follows:

(1) ***(a)*** All elements of the comprehensive plan shall be prepared with a view towards carrying out the ***local planning unit's*** statement of goals and objectives***, and the regional planning council's and state planning committee's transportation, infrastructure, and land use plans***.

(b) Before the planning commission adopts the elements, it shall submit its proposed comprehensive plan to the regional planning council which shall then review the comprehensive plan for compatibility with the transportation, infrastructure, and land use plans for the district which the regional planning council adopted under subsection (5) of Section 6 of this Act. If the comprehensive plan is compatible with the transportation, infrastructure, and land use plans adopted by the regional planning council, and the regional planning council makes no recommendations for change, then it shall forward the proposed comprehensive plan to the state planning committee formed under the provisions of KRS 147.075 and notify the local planning commission of that action at the same time it forwards the plan to the state planning committee.

(c) If the regional planning council makes recommendations for changes to the proposed comprehensive plan, it shall send those recommendations back to the local planning commission. It shall also send its recommendations to the state planning committee. The local planning commission need not incorporate the recommendations returned to it from the regional planning council~~[The various elements may be adopted as they are completed, or as a whole when all have been completed]~~.

(d) If the regional planning council does not take any action on a comprehensive plan submitted to it by a planning commission within thirty (30) days of its submission, then the planning commission shall forward its comprehensive plan to the state planning committee.

(e) Once the planning commission has afforded the regional planning commission an opportunity to make recommendations regarding the planning commission's comprehensive plan, or the thirty (30) day time period has elapsed, the planning commission shall hold a public hearing and adopt the elements.

(f) The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after a public hearing before the planning commission.

(2) ***(a)*** The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review.

(b) Changes proposed to be adopted by the planning commission under paragraph (a) of this subsection shall be submitted to the regional planning council and the state planning committee in the same manner as in subsection (1) of this section if the changes would present any regional impact or would affect the regional transportation, infrastructure, or land use plans for the area development district.

(c) No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in subsection (2) of KRS 100.193. ***One (1) copy of each element of the comprehensive plan shall also be sent to both the regional planning council and the state planning committee.***

(4) No later than eighteen (18) months after the adoption or readoption of, or amendment to, the comprehensive plan, the zoning and land subdivision regulations shall be revised as necessary to assure conformity with the goals, objectives, and elements of the plan, and any decisions reviewing a change in zoning or a proposed subdivision of land shall be

consistent with the comprehensive plan.

(5) Any person may commence a civil action against the state, region, local government, or planning commission in regard to any part or all of a comprehensive plan proposed by the state, region, local government, or planning commission. The filing of this civil action itself shall not stop the implementation of the plan.

Section 6. KRS 147A.125 is amended to read as follows:

(1) [~~Except as set forth in subsection (8) of this section,~~]Each area development district shall establish a regional planning council to act in an advisory capacity on planning matters throughout the district.

(2) The regional planning council shall be composed of one (1) representative from each planning unit in the area development district. Each representative shall be appointed annually by the planning commission of each planning unit in the district. To be eligible for appointment to the council, a person shall be a member of the planning commission, or the planning commission's professional staff. ***One (1) additional at-large appointment shall be made by the board of the area development district for every five (5) appointed representatives, or additional fraction thereof. The at-large appointee shall be a citizen who is not an elected or appointed official.***

(3) At its first regular meeting in each year, the council shall elect from its membership a president and vice president. The vice president shall have the authority to act as president of the council during the absence or disability of the president.

(4) The council shall meet at the call of the president, but at least quarterly in each year.

(5) To insure compatible treatment of planned development throughout the district, the council ***shall***[~~may~~] review comprehensive plans of planning units within the district for regional impact, ***shall***[~~may~~] develop regional transportation, infrastructure, and land use plans for the district, and ***shall***[~~may~~] make recommendations regarding the regional impact of proposed comprehensive plans and plan amendments of planning units within the district ***when the planning units' proposed comprehensive plans and plan amendments do not meet the regional transportation, infrastructure, and land use plans for the district. If the planning units' proposed comprehensive plans and plan amendments meet the regional transportation, infrastructure, and land use plans for the district, the council shall forward the proposed comprehensive plans and plan amendments to the state planning committee under KRS 147.075***.

(6) ***The regional planning council shall ensure that its regional transportation, infrastructure, and land use plans:***

(a) Provide for the most efficient and appropriate use of land;

(b) Provide for the mixed uses of developments and land;

(c) Maximize the efficient design, use, and maintenance of regional government services, which shall include, but not be limited to:

1. Utilities;

2. Transportation; and

3. Public ~~protection~~ services such as, but not limited to, fire and police protection;

(d) Preserve community identity through the preservation of historic, and natural resources and open spaces;

(e) Protect air and water quality;

(f) Encourage infill and revitalization in existing developed areas of the region;

(g) Recognize that some sites within the area development district's jurisdiction have limitations for development, including, but not limited to:

1. Degree of land slope;

2. Presence of karst features;

3. Floodplains;

4. Hydric soils;

5. Hydric wetlands; and

6. Critical habitats; and

(h) Examine the possibility of directing regional development to facilitate alternative modes of transportation, including, but not limited to:

1. Bicycles;

2. Mass transit; and

3. Pedestrian modes.

(7) The regional planning council shall submit its regional transportation, infrastructure, and land use plans to the state planning committee for review before adopting or amending its plans. The state planning committee shall either approve the plans or make recommendations to coordinate its plans with the regional planning councils' plans and the regional planning council may make the recommended changes.

(8) The area development district shall provide staff and technical support as requested by the council. Existing land use planning services and functions of the area development district shall be placed under the direction and control of the council.

(9)[~~(7)~~]The council may offer training and education opportunities in the area of planning and zoning matters to planning commission members and staff in the district.

[~~(8) The requirements of this section shall not apply to any area development district in which fifty percent (50%) or more of the population resides in cities or counties which participate in a regional planning authority, council of governments, or other agency which is authorized to perform regional planning functions as described in this section.~~]

Section 7. KRS 147.070 is amended to read as follows:

(1) The Governor's Cabinet shall:

- (a) Prepare and adopt plans for complete systems of state or regional highways, expressways, parkways, parks, water supply and forest reservations, airways and air terminals, and other things of significance in furthering a well balanced development of the state.
- (b) Advise with state agencies, local authorities and individuals with a view to the coordination of all physical development plans that are related to state activities.
- (c) Make surveys of rural land utilization with a view to the determination of the areas suitable for field crops, reforestation, watershed protection, recreation and urban expansion.
- (d) Draft for submission to the General Assembly such regulations affecting the use and development of property as are deemed reasonable and necessary for orderly and coordinated developments preserving the integrity of officially approved plans or conserving the natural resources of the state.
- (e) Collect and publish information relating to welfare problems affecting the people of the state and make such recommendations on those problems to the General Assembly as may seem advisable and proper.
- (f) Cooperate with planning boards of other states and the national planning board.
- (g) Act as a research broker in assisting state government to meet its research needs and to perform such functions also upon request from local governments.
- ***(h) Coordinate with, and review proposed comprehensive plans and plan amendments from, regional planning councils through the state planning committee to ensure that their plans work in concert with the state development plans adopted under paragraph (a) of this subsection to:***
  - ***1. Provide for the most efficient and appropriate use of land, limiting unnecessary growth;***
  - ***2. Provide for the mixed uses of developments and land;***
  - ***3. Maximize the efficient design, use, and maintenance of government services, that shall include, but not be limited to, any state-run utilities, transportation, and public protection services such as, but not limited to, police protection;***
  - ***4. Preserve community identity through the preservation of historic, and natural resources and open spaces;***
  - ***5. Protect air and water quality;***
  - ***6. Encourage infill and revitalization in existing developed areas of the Commonwealth;***
  - ***7. Recognize that some sites within the state have limitations for development, including, but not limited to:***
    - ***a. Degree of land slope;***
    - ***b. Presence of karst features;***
    - ***c. Floodplains;***
    - ***d. Hydric soils;***
    - ***e. Hydric wetlands;***
    - ***f. Critical habitats; and***
  - ***8. Examine the possibility of directing development to facilitate alternative modes of transportation, including, but not limited to:***
    - ***a. Bicycles;***
    - ***b. Mass transit; and***
    - ***c. Pedestrian modes.***

(2) The cabinet shall have such powers as are necessary to promote state planning and to enable it to carry out the purposes of KRS 147.070 to 147.100.

(3) All public officials shall upon request furnish to the Governor's Cabinet, within a reasonable time, such available

information as it may require for its work. The members and employees of the cabinet may, in the performance of their functions, enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon.

(4) Every state officer or agency, before requesting legislative or executive approval of a plan or authorization of an appropriation for a major public improvement related to or affected by any general plan prepared under authority of KRS 147.070 to 147.100, or before requesting a change of use or disposition of real property that is owned by the state or in which the state has an interest, shall make a written request to the Governor's Cabinet for its recommendations, and shall give the cabinet a reasonable opportunity to study and make its recommendations thereon.

(5) The state planning committee shall maintain a current file of all planning commissions' comprehensive plans and plan amendments, and all regional planning councils' transportation, infrastructure, and land use plans and plan amendments. The state planning committee shall allow inspection of these plans during normal business hours.

Section 8. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments;~~[and]~~

(m) The urban development office***; and***

(n) Local planning commissions and planning officials.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

Section 9. KRS 147A.090 is amended to read as follows:

(1) Each district board of directors shall have the power, duty, and authority to:

(a)~~[(1)]~~Establish such functional advisory committees as may be necessary and advisable. These functional advisory committees shall be organized to meet such guidelines as may be required for federal or state assistance.

(b)~~[(2)]~~Conduct the necessary research and studies and coordinate and cooperate with all appropriate groups and agencies in order to develop, and adopt and revise, when necessary, a district development plan or series of plans, including, but not limited to, the following districtwide plan elements: goals and objectives; water and sewer; land-use; and open space and recreation. Such plans shall serve as a general guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships.

(c)[~~(3)~~]Prepare annually a report of its activities to the cities and counties within the district, the legislature, and the Governor. The board shall make copies of the report available to members of the public within the district.

(2) Each district board of directors is encouraged to employ a minimum of two (2) planners. Each board is further encouraged to require that at least one (1) planner shall be certified by the American Institute of Certified Planners and that the other, if not certified, make progress toward certification. It is further encouraged that the planners assist each of the planning units under the jurisdiction of the area development district, when possible, in their planning duties, as well as other duties that may be prescribed by the district's board of directors.

Section 10. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

- (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;
- (b) The size, width, height, bulk, location of structures, buildings and signs;
- (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;
- (d) Intensity of use and density of population floor area to ground area ratios, or other means;
- (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;
- (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and
- (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that[~~ land which is used for~~] agricultural ***activities, as defined in Section 2 of this Act, occurring on tracts of land greater than ten (10) acres in size are not prohibited. Nothing contained in this section shall be construed as limiting the ability of cities and counties to regulate other uses or activities including, but not limited to, single family residential dwellings. Nothing in this section shall be deemed to prohibit provisions for dwellings for persons and their families on land in which agricultural activities are being undertaken***[~~purposes shall have no regulations except that:~~

- ~~(a) Setback lines may be required for the protection of existing and proposed streets and highways;~~
- ~~(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and~~
- ~~(c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy~~];

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

- (a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In~~[urban-county governments, in]~~ addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced.

Section 11. KRS 100.201 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 100.137, when the planning commission and legislative bodies have adopted the statement of goals and objectives, and the planning commission has additionally adopted at least the land use element for the planning unit, the various legislative bodies and fiscal courts of the cities and counties, which are members of the unit, may enact interim zoning or other kinds of growth management regulations which shall have force and effect within their respective jurisdictions for a period not to exceed twelve (12) months, during which time the planning commission shall complete the remaining elements of the comprehensive plan as prescribed by KRS 100.187. Interim regulations shall become void upon the enactment of permanent regulations as provided in subsection (2) of this section, or after twelve (12) consecutive months from the date such interim regulations are enacted, whichever occurs first.

(2) When all required elements of the comprehensive plan have been adopted in accordance with the provisions of this chapter, then the legislative bodies and fiscal courts within the planning unit may enact permanent land use regulations, including zoning and other kinds of growth management regulations to promote public health, safety, morals, and general welfare of the planning unit, to facilitate orderly and harmonious development and the visual or historical character of the unit, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, land use and zoning regulations may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood, or other dangers. Land use and zoning regulations may also be employed to protect airports, highways, and other transportation facilities, public facilities, schools, public grounds, historical districts, central business districts, prime agricultural land, and other natural resources; to regulate the use of sludge from water and waste water treatment facilities in projects to improve soil quality; and to protect other specific areas of the planning unit which need special protection by the planning unit.

(3) Land use and zoning regulations may include the designation of specifically defined areas to be known as urban residential zones, in which:

(a) The majority of the structures were in use prior to November 22, 1926; and

(b) 1. The entire area embodies the distinctive characteristics of a type, period, or method of construction; or

2. The entire area represents a significant and distinguishable entity whose components may lack individual distinction.

The usage of structures within an urban residential zone may be regulated on a structure-by-structure basis, permitting a mixture of uses in the zone, including single-family and multi-family residential, retail, and service establishments, which stabilizes and protects the urban residential character of the area. The regulation of the usage of any structure shall be guided by the architecture, size, or traditional use of the building.

(4) The communities' comprehensive plan and land use management regulations may include the designation of an area or areas to be developed as neo-traditional neighborhoods. These plans and regulations are encouraged to promote neighborhood design that:

(a) Preserves the environment through land conservation and efficient modes of transit;

(b) Connects the neighborhood seamlessly with its surroundings;

(c) Is of a scale and detail that encourages pedestrian activity;

(d) Uses natural surroundings by preserving and maintaining water features, trees, and topography;

(e) Is as self-sufficient as possible;

(f) Provides a variety of easily accessible activities, with a center containing convenient retail and transit facilities;

(g) Provides high-density housing;

(h) Groups buildings together in a manner based upon their physical compatibility to create harmonious streetscapes;

(i) Organizes the neighborhood around its public buildings and open spaces;

(j) Contains a formal, public space at its center;

(k) Ensures that elementary schools, daycare, playgrounds, and recreational facilities are small and abundant to ensure pedestrian accessibility;

(l) Networks continuous thoroughfares of small blocks to distribute traffic evenly;

(m) Provides multiple functions for the network of thoroughfares, so that none is relegated strictly to the moving of vehicles;

(n) Contains a wide range of street types designed as environments equitable for the pedestrian, bicycle, and the automobile, which are also designed and constructed to keep vehicular speeds at a minimum in order to be safe and pleasant to the pedestrian; and

(o) Contains a varied mix of land uses to include, at a minimum, basic commercial sites, housing of varied styles and affordability, and workplaces.

Section 12. KRS 100.324 is amended to read as follows:

(1) *In conjunction with the adoption or revision of the comprehensive plan, the planning commission, after consultation with the utilities providing water, sewer, gas, and electric services within the community, shall adopt and update a plan identifying that level of utility services consistent with the designated level of service, for those areas within the jurisdiction of the planning unit.*

(2) The Public Service Commission, in reviewing any application by a utility for a certificate of necessity and convenience that proposes construction or extension of water, sanitary sewer, gas, or electric utility service within an area that is within the jurisdiction of a planning unit that has adopted planning and zoning regulations in accordance with KRS Chapter 100, shall consider the plan described in subsection (1) of this section and shall not approve a request providing for utility service provision, extension, or expansion at a level of service inconsistent with the designated level of service for the area under that plan. Prior to the review conducted by the Public Service Commission, all applications by the utilities shall be submitted first to the local planning commission to determine if the proposed level of service is consistent with the planning commission's adopted comprehensive plan for the area. The planning commission shall review the applications in a public hearing in accordance with the provisions of KRS Chapter 424 and shall forward its actions of approval or disapproval to the Public Service Commission.

(3) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987 and *subsections (1), (2) and (7)*[~~subsection (5)~~] of this section, or the Department of Vehicle Regulation or Federal Power Commission, any municipally-owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

(4)[~~(2)~~]The nonservice facilities excluded in subsection *(3)*[~~(1)~~] of this section must be in accordance with the zoning regulations.

(5)[~~(3)~~]Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(6)[~~(4)~~]Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

(7)[~~(5)~~]Every utility which proposes to construct an antenna tower for cellular telecommunications services or personal communications services within a county containing a city of the first class shall submit the proposal to the planning commission of the affected planning unit. The planning commission shall review the proposal in light of its agreement

with the comprehensive plan and locally-adopted zoning regulations and shall, within sixty (60) days from the date the proposal is submitted, make its final decision and advise the utility in writing whether the proposed construction is in accordance with the comprehensive plan and locally-adopted zoning regulations. If the planning commission fails to issue a final decision within sixty (60) days, it is presumed to have approved the proposal, and may not later appeal a decision of the Public Service Commission under KRS 278.650(3). If the planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally-adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its final decision on the utility proposal, whichever occurs first.

Section 13. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. ***The Finance and Administration Cabinet shall not purchase or otherwise acquire any real property and subsequently use that property for a purpose that is in contravention to the use prescribed for that parcel of land by the local comprehensive plan established by a local government under KRS Chapter 100.*** Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;
(b) A package system commonly referred to as "turnkey";
(c) Phase bidding commonly referred to as "fast track"; or
(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 14. KRS 278.650 is amended to read as follows:

(1) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located within a county containing a city of the first class, then the utility shall submit the proposal to the planning commission of the affected planning unit prior to making application to the commission for a certificate of

public convenience and necessity as required by KRS 278.020(1). The commission shall not grant a certificate of convenience and necessity in this situation until a final action on the proposal has been taken by the planning commission of the affected planning unit, or until the sixty (60) day time period set forth in KRS 100.324*(7)*[~~(5)~~] has expired, whichever comes first.

(2) If a planning commission rejects a proposal to construct an antenna tower, the commission may override the decision of the planning commission and issue a certificate of convenience and necessity for construction of the cellular or personal communications services antenna tower, if it determines that there is no acceptable alternate site, and that the public convenience and necessity requires the proposed construction.

(3) Any party aggrieved by the final action of the Public Service Commission under subsections (1) and (2) of this section shall appeal from the action to the Franklin Circuit Court. The appeal shall be filed within thirty (30) days after the final action by the Public Service Commission. All final actions of the Public Service Commission which have not been appealed within thirty (30) days shall not be subject to judicial review.

(4) If a utility proposes construction of an antenna tower for cellular telecommunications services or personal communications services which is to be located outside the area of a county containing a city of the first class, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values.

The Committee Amendment No. 1 Title to **HB 524** is as follows:

By amending the title to read as follows: AN ACT relating to land use and planning.

HB 555, AN ACT relating to fire districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.031 is amended to read as follows:

(1) (a) Upon creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive. Two (2) members of the board of trustees shall be elected by the members of the firefighters of the district and shall be members of the district. No more than one (1) of the two (2) firefighter trustees may be an employee of the fire protection district or volunteer fire department district. Two (2) members of the board of trustees shall be property owners who own real or personal property which is subject to the fire protection tax pursuant to KRS 75.040, who personally reside in the district, and who are not active firefighters and shall be elected by the property owners of the district with the same qualifications. The county judge/executive of the county in which the greater part of the district is located shall, with the approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in volunteer fire prevention districts shall reside within the boundaries of that county. At the first election held after the district is formed, one (1) firefighter shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years, and one (1) nonfirefighter property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his ***or her*** predecessor and shall be elected for a term of four (4) years. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. On the expiration of the respective terms, the successors to each shall be appointed for a term of three (3) years. In the event of a vacancy in the term of an appointed or elected trustee, the county judge/executive shall appoint with the approval of the fiscal court a trustee for the remainder of the term.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(c) No person shall be an elected trustee who, at the time of his election, is not a citizen of Kentucky and has not attained the age of ***eighteen (18)***[~~of twenty-one (21)~~].

(d) Unless otherwise provided by law, an elected firefighter trustee may be removed from office by the county judge/executive of the county in which the greater part of the district is located after a hearing with notice as required by KRS Chapter 424, for inefficiency, neglect of duty, malfeasance or conflict of interest. The hearing shall be initiated and chaired by the county judge/executive, who shall prepare a written statement setting forth the reasons for removal. The trustee to be removed shall be notified of his proposed removal and the reasons for the proposed removal by registered mail sent to his last known address at least ten (10) days prior to the hearing. The person proposed to be removed may employ counsel to represent him. A record of the hearing shall be made by the county judge/executive.

(e) The removal of an elected firefighter trustee of a fire protection district shall be subject to the approval of the fiscal court of the county in which the greater part of the district is located.

(f) An elected firefighter trustee removed pursuant to paragraphs (c) and (d) of this subsection may appeal, within ten (10) days of the rendering of the decision of the fiscal court, to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the county judge/executive or the fiscal court abused their discretion in removing the trustee.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on the fourth Saturday of June between the hours of 11:00 a.m. and 2:00 p.m. The polls shall be located at the principal fire house in the district. The date, time, and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. In lieu of the published notice for the election of the firefighter trustees, written notice containing the information required to be advertised may be sent by first-class mail to each member of the firefighters of the fire protection district or volunteer fire department district, addressed to the firefighter at his residence, at least thirty (30) days prior to the election date. The nominations for candidates for trustees both representing the firefighters and the property owners residing in the district shall be made in accordance with the bylaws of the department. The terms of the three (3) trustees appointed by the county judge/executive shall start at the same time as the terms of the elected trustees. On or before the beginning of the second fiscal or calendar year, depending on which basis the fire protection or volunteer fire department district is being operated, after June 16, 1966, all departments organized prior to June 16, 1966, shall increase their boards of trustees from three (3) to seven (7) members and elect the elective members in the manner set forth herein.

(3) The trustees shall elect from their number a chairman, a secretary and a treasurer, the latter of whom shall give bond in ***an***~~[such]~~ amount as shall be determined by the county judge/executive of the county in which the greater part of the fire protection district is located, conditioned upon the faithful discharge of the duties of his office, and the faithful accounting for all funds which may come into his ***or her*** possession as~~[such]~~ treasurer. The premiums on ***the***~~[such]~~ bonds shall be paid out of the funds of the district.

Section 2. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of three (3) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by any one (1) of the following:

1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of fish and game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;

2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;

3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or

4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training, Department of State Police, and any other state agency with the authority to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his ***or her*** competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he ***or she*** has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees following the date of his retirement. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(5) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the

new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6) and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding, except that nothing in this section shall preclude a judge from carrying a concealed weapon;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property;

(h) Any church, synagogue, house of worship, or other property owned, leased, or otherwise used and operated by a religious organization in the furtherance of a religious purpose, unless the person carrying the concealed deadly weapon has a concealed deadly weapon license and is the pastor of the church or an officer of the church;~~[or]~~

(i) ***Any fire station operated by a fire department or volunteer fire department; or***

(j) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, other than the weapons issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his ***or her*** rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

The Committee Amendment No. 1 to **HB 555** is as follows:

From page 4, line 6, through page 16, line 10, by deleting Section 2 in its entirety.

The Committee Amendment No. 2 to **HB 555** is as follows:

On Page 1, line 14, after "district", by inserting, "*. Property owners voting to select representatives to the board of trustees shall have attained the age of eighteen (18).*"; and

On Page 1, line 14, by bracketing and striking through "with the same qualifications."; and On Page 2, lines 11 and 12, by deleting the underlined language and removing the brackets and strikethroughs to restore the original language.

HB 726, AN ACT relating to the creation of an emergency services board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court may, through the adoption of an ordinance in accordance with 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within the county:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal court has merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created whose board of directors and taxing authority are not transferred to the emergency services board, and no boundary of a district shall exceed the boundary of the county that the emergency services district represents.

(3) An emergency services board's jurisdiction shall encompass the boundaries of the special districts whose boards and taxing authority it is replacing.

(4) An emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If an emergency services board chooses to levy the tax allowed in Section 6 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) An emergency services board may be dissolved or the boundaries of the districts it represents may be altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of

the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any unattributable debt shall be assumed by the fiscal court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more fiscal courts may, through the adoption of concurrent ordinances in accordance with KRS 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within their counties:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal courts have merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created in any of the member counties whose administration and taxing authority are not transferred to the emergency services board, and no boundary of a district shall exceed the boundaries of the counties that the multicounty emergency services district represents.

(3) A multicounty emergency services board's jurisdiction shall encompass the boundaries of the special districts within the member counties whose boards and taxing authority it is replacing.

(4) A multicounty emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If a multicounty emergency services board chooses to levy the tax allowed in Section 6 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk of each member county who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) A multicounty emergency services board may be dissolved or the boundaries altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any unattributable debt shall be assumed equally by each fiscal court formerly participating in the multicounty emergency services board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board shall be a corporate public body and a political subdivision of the Commonwealth. It may prosecute and defend suits, hire necessary employees, and perform all acts necessary to carry on the work of providing fire fighting, emergency ambulance, and rescue squad services to the community.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of one (1) county shall be controlled and managed by a board of directors appointed by the county judge/executive with the approval of the fiscal court.

(2) The county judge/executive shall appoint:

(a) One (1) member from each magisterial district of the county; and

(b) One (1) additional member from the county at large.

(3) (a) If the board is composed of a number evenly divisible by four (4):

1. One-fourth (1/4) of the board members' initial terms shall be one (1) year;

2. One-fourth (1/4) of the board members' initial terms shall be two (2) years;

3. One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

4. One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(b) If the board is composed of a number unevenly divisible by four (4), then the county judge/executive shall appoint the remainder for a term of four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive shall serve as an exofficio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of more than one (1) county shall be controlled and managed by a board of directors consisting of no more than eleven (11) members, with the number of members to be determined jointly by each county judge/executive in each member county.

(2) The county judge/executive of each member county shall be entitled to appoint a proportionate share of the board relative to the population of the county according to the most recent federal census estimates of the year in which appointments are to be made. With the exception of the expiration of the initial appointment at the creation of the emergency services board, each year an appointment term expires the county judges/executive shall determine which county judge/executive, according to the adjusted population count, shall be allowed to make an additional appointment. Each member county shall be allowed at least one (1) appointee. In no instance shall the emergency services board encompass more than eleven (11) counties.

(3) (a) One-fourth (1/4) of the board members' initial terms shall be one (1) year;

(b) One-fourth (1/4) of the board members' initial terms shall be two (2) years;

(c) One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

(d) One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county he or she represents.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive of each county shall serve as an exofficio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

(12) Vacancies in unexpired terms shall be filled by the appointing authority for the remainder of the unexpired term. No reapportionment, in accordance with the provisions of subsection (2) of this section, shall be executed in the instance of a vacancy in an unexpired term.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services board may levy an ad valorem tax not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district. The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this section, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in Section 1 or 2 of this Act.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board may contract with private and public entities to provide fire, ambulance, and emergency squad services.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Once an emergency services board assumes control over fire, ambulance, or emergency squad districts, a fiscal court, or fiscal courts through an interlocal agreement, may opt to provide fire, ambulance, and emergency squad services directly or through an agency of county government. If that is the case, a dedicated ad valorem tax for the provision of fire, ambulance, and emergency squad services exclusive of all other taxes may be levied by the county or counties. The provisions of the ad valorem tax of Section 6 of this Act shall apply.

(2) The initial levy of the ad valorem tax for the provision of funding to the emergency services board under this section shall not be subject to the recall provisions of KRS 68.245 or 132.023, whichever is applicable. Subsequent changes to the amount shall be subject to the provisions of KRS 68.245 or 132.023, whichever is applicable.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

In counties where ambulance districts created under the provisions of KRS 108.080 to 108.180; fire protection districts created under the provisions of KRS 75.010 to 75.260; or local rescue squad districts created under the provisions of KRS Chapter 39F exist and have enacted an ad valorem tax, the emergency services board may leave those ad valorem tax levies in place. The emergency services board may levy its permitted funding mechanisms in addition to these existing taxes, but the aggregate of the existing tax levied by the original district or districts, and the tax levied by the emergency services board shall not exceed the limits prescribed in Section 6 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

If a fiscal court chooses to create an emergency services board, the provisions of Sections 1 to 10 of this Act shall supersede the structure of the boards of directors and the taxing privileges under KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F. The remaining provisions of KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F, applicable to the operation of the fire department, ambulance service, or emergency squad, shall remain in effect.

Section 11. KRS 65.164 is amended to read as follows:

As used in KRS 65.166 to 65.176, the word "district" shall mean any board, commission or special district created pursuant to the following statutes: ***Sections 1 to 10 of this Act,*** KRS 75.010 to 75.260; KRS 104.450 to 104.680; KRS 108.010 to 108.070; KRS 184.010 to 184.300; KRS 220.010 to 220.613; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 269.100 to 269.270.

The Committee Amendment No. 1 to **HB 726** is as follows:

On Page 1, line 3, after "***court***", by inserting, "***in a county with a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county***"; and

On Page 2, line 10, after "***courts***", by inserting, "***of which one (1) county shall have a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county***".

HB 865, AN ACT relating to city police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.360 is amended to read as follows:

(1) No employee in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission.

(2) Any person may prefer charges in writing against any employee by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he ***or she*** believes guilty of conduct justifying his ***or her*** removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he ***or she*** may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employee without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents ($0.50) to the city clerk by the employee. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employee has been

guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(7) (a) Any of the following offices, positions, and places of employment, in the police and fire departments of a city of the second or third class, may be excluded from the classified service:

1. Chief of police;

2. Assistant chief of police;

3. Chief of firefighters; and

4. Assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Any city of the second or third class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission. Any classified employee in the police or fire department, who accepts an appointment and qualifies as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his appointment.

HB 877, AN ACT changing the classification of the City of Horse Cave, in Hart County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Horse Cave, in Hart County, is such as to justify its being classified as a city of the fourth class;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Horse Cave, in Hart County, is transferred from the fifth to the fourth class of cities.

HB 889, AN ACT relating to the vacant property review commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency or an agency in a county containing a city of the first class, as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city or county agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of ***the***[~~such~~] condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in counties containing a city of the first class and cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan ***or there is finding by the administrative official charged with the enforcement of the zoning ordinance of the affected city or county that the continuing utilization of the property as residential is not a violation of the zoning ordinance***.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration

has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city or county under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his ***or her*** agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of ***the***[~~such~~] notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that ***the***[~~such~~] period is insufficient to correct the conditions cited in the notice.

HB 903, AN ACT relating to municipal colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 165.160 is amended to read as follows:

(1) Cities of the second***, third, and fourth classes***[~~ class~~] may establish or acquire by lawful conveyance municipal colleges for the purpose of promoting public education. A college in a city of the second***, third, or fourth*** class shall not constitute a municipal college or receive support as provided in KRS 165.170 to 165.190 unless it is controlled by a board of trustees appointed by the mayor and legislative body of the city, and unless its principal work is the maintenance of courses affording instruction in such arts, sciences and professions and conferring such certificates of attainment as are authorized by other similar institutions of learning above the high school grade. No advisory board shall be appointed for any college established pursuant to the provisions of this section, and the board of trustees of the college shall perform the functions of an advisory board in addition to its other functions.

(2) If the college is supported by a municipal college support district, three (3) members of the board of trustees mentioned in subsection (1) shall be appointed by the governing body of the district.

Section 2. KRS 165.165 is amended to read as follows:

The legislative body of a city of the second***, third, or fourth*** class in which a municipal college or junior college exists under the provisions of KRS 165.160 to 165.260 may, for educational purposes, use and employ all the authority contained in KRS 165.080 to 165.140 and 162.340 to 162.380 to issue bonds for the benefit of such college.

Section 3. KRS 165.180 is amended to read as follows:

Any city of the second***, third, or fourth*** class having a municipal college may devote to college purposes any funds or properties derived from sources other than taxes levied for special purposes.

Section 4. KRS 165.190 is amended to read as follows:

The legislative body of any city of the second***, third, or fourth*** class may appropriate as a site for the buildings and grounds for a municipal college any public grounds of the city not especially appropriated or dedicated to any other use.

Section 5. KRS 165.195 is amended to read as follows:

The board of trustees of a municipal college in a city of the second***, third, or fourth*** class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in the Eminent Domain Act of Kentucky.

The Committee Amendment No. 1 to **HB 903** is as follows:

On page 2, after line 11 by inserting:

SECTION 6. A NEW SECTION OF KRS CHAPTER 165 IS CREATED TO READ AS FOLLOWS:

It shall a public purpose for a city of any class to support postsecondary education through the appropriation of funds for postsecondary educational facilities located or to be located within the city and for postsecondary educational programs offered within the city. Nothing in Sections 1 to 6 of this Act shall create an obligation or liability for the Council on Postsecondary Education.

HB 909, AN ACT relating to city annexation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.530 is amended to read as follows:

(1) When a city of the third, fourth, or fifth class and a city of the sixth class have a common boundary, and it is determined by the legislative body of the city of the sixth class and of the adjoining city of the third, fourth, or fifth class that the

entire area of the city of the sixth class can be better served by the adjoining city, the entire area of the city of the sixth class may be annexed to the adjoining city and the city of the sixth class dissolved after the enactment of identical ordinances by each legislative body according to the provisions of this section.

(2) The ordinances declaring the annexation of the city of the sixth class by the adjoining city shall include, but not be limited to, the following:

(a) A statement of the financial consideration, if any, between the two (2) cities regarding the area of the city of the sixth class and the terms of any financial arrangements;

(b) The resolution of any taxes or revenues from the area of the city of the sixth class;

(c) A statement of the land use or the zoning regulations that would be applicable to the area of the city of the sixth class if planning and zoning is in effect pursuant to KRS Chapter 100 in either city; and

(d) The date that the annexation of the city of the sixth class by the adjoining city would be effective, which shall not be more than one (1) year after the date on which the last of the identical ordinances is adopted.

(3) In order for the annexation to be completed, either of the following procedures shall be followed and concluded:

(a) Prior to the effective date of the annexation of the area of the city of the sixth class into the adjoining city, a petition in support of the annexation, containing a number of signatures of residents in the area of the city of the sixth class that is not less than fifty-one percent (51%) of the number of registered voters in the area of the city of the sixth class, shall be submitted to the county clerk of the county in which the city of the sixth class is located. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition; or

(b) An election shall be held to determine the desire of the voters in the city of the sixth class. An election shall be held at a regular election~~[, or an election may be held at a primary election if an ordinance or municipal order of the legislative body of the city of the sixth class desiring annexation has been filed with the county clerk not later than the second Tuesday in August preceding the primary election]~~. The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form: "Are you in favor of annexing the city of .... into the city of .... and dissolving the city of ....? Yes.......... No...........".

(4) If the requisite number of signatures is verified by the county clerk as provided in subsection (3)(a) of this section, or if a majority of the legal votes cast at the election in the city of the sixth class proposing to be annexed favors the annexation, the annexation shall proceed and become effective, and the city of the sixth class shall be dissolved at the date provided in the identical ordinances adopted by the legislative bodies of the city of the sixth class and of the adjoining city upon the enactment by the legislative body of the adjoining city of an ordinance accepting the annexation of the city of the sixth class.

(5) All assets of the city of the sixth class existing on the date of annexation shall become the property of the annexing city. Any indebtedness for which the city of the sixth class is liable on the date of annexation shall be assumed by the annexing city, so that after annexation the burden of taxation shall be uniform throughout the area of the two (2) cities.

(6) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.

(7) The authority for the annexation of the city of the sixth class shall be exclusive of the provisions of KRS 81A.440.

(8) In addition to other public notice requirements, the annexing city shall comply with the provisions of KRS 81A.470, but shall not be required to comply with the provisions of KRS 81A.475. The city clerk of the city of the sixth class shall, within sixty (60) days after the effective date of the dissolution of the city of the sixth class, give written notice of the dissolution and the date of the dissolution to the Secretary of State who shall properly index and file the notice and date as a permanent record in the secretary's office.

(9) The area of the city of the sixth class being annexed shall assume the local option status of the city by which it is being annexed.

HB 916, AN ACT relating to the striking-off of county territory.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.030 is amended to read as follows:

(1) ***Residents of a territory adjoining another county may request to have the territory stricken from the county in which that particular territory is located and attached to the adjoining county by filing a petition with the county judge/executive of the county in which the territory is located. The petition shall:***

(a) Contain a legal description of the territory to be stricken;

(b) Be signed by not less than twenty-five percent (25%) of the registered voters living in the territory to be stricken as of the last regular election; and

(c) Include the printed name, address, age, and date of signature of each voter signing the petition[~~When a petition, describing a particular territory of a county and signed in person by not less than a majority of the voters living in that territory, is filed with the county judge/executive, asking for an election on the proposition of dividing the county or striking the described territory from the county and attaching it to an adjoining county, the county judge/executive, by order entered of record, shall call an election on that proposition to be held on the day of any regular election held in the county for other than county officers if the order is filed with the county clerk not later than the second Tuesday in August preceding the day of the regular election. No order calling such an election shall be legal unless it contains a specific description of the territory proposed to be stricken or divided~~].

(2) ***Upon receipt of a petition described in subsection (1) of this section, the county judge/executive of the county in which the territory is located shall:***

(a) Present the petition to the fiscal court in which the territory is located at the court's next regular meeting;

(b) Present the petition to the clerk of the county in which the territory is located, who shall determine its sufficiency in meeting the requirements prescribed in subsection (1) of this section and certify, in writing, to the county judge/executive of the county in which the territory is located within thirty (30) days of the receipt of the petition whether the petition is sufficient or insufficient and, if insufficient, provide a written statement of the deficiencies in the petition; and

(c) Send by certified mail, a copy of the petition and the certificate of the clerk stating that the petition is sufficient to the county judge/executive of the county to which the territory is proposed to be attached within five (5) days of the certification of the clerk. If the clerk determines that the petition is insufficient, the county judge/executive shall advise the fiscal court of the deficiencies in the petition at the court's next regular meeting and return the petition to the presenter along with the clerk's statement of deficiencies[~~The county judge/executive, by order entered of record, shall direct the sheriff to advertise the election and its object by publication pursuant to KRS Chapter 424, and by printed handbills posted at the courthouse door and at not less than four (4) places in each precinct~~].

(3) ***Within one hundred eighty (180) days of receipt of the petition and certification prescribed in subsection (2) of this section, the fiscal courts of the county in which the territory is located and the county to which the territory is proposed to be attached shall negotiate an agreement concerning the transfer of the territory, including the terms of the monetary remuneration, if any, to be exchanged between counties. Each fiscal court shall adopt an ordinance setting forth the legal description of the territory contained in the petition and the terms of the agreement between the two (2) counties. If the fiscal courts are unable to agree to the terms of the transfer within one hundred eighty (180) days of the receipt of the petition and certification prescribed in subsection (2) of this section, the petition shall be void***[~~The proposition shall not be adopted unless a majority of all the legal voters of the county voting on the question vote in favor of it~~].

(4) ***If the fiscal courts of the counties agree and adopt ordinances approving the transfer of the territory, the clerk of the county in which the territory is located shall cause the issue to be placed before the voters of each precinct embraced in whole or in part within the territory at the next regular election that is not a regular election of county officers occurring not less than ninety-one (91) days after the date of the last ordinance approving the transfer. The question upon the ballot shall state: "Are you in favor of having the territory in which you reside being stricken from the County of... and added to the County of ...?" If only a part of a precinct is embraced within the territory to be stricken, only registered voters of the precinct who reside within the territory shall be permitted to vote on the question. The clerk of the county in which the territory is located shall advertise the election and its object in accordance with KRS Chapter 424 and by printed handbill posted at the courthouse door and at not less than four (4) conspicuous places in each precinct embraced in whole or in part within the territory***[~~Any portion stricken off and added to another county as a result of the election shall be bound for all costs expended~~].

(5) (a) If fifty percent (50%) or more of the residents in the territory voting on the question oppose the transfer of the territory, the territory shall remain part of the county in which it is located.

(b) If more than fifty percent (50%) of the residents of the territory voting on the question vote in favor of the transfer of the territory, the territory shall be stricken from the original county and added to the adjoining county and become a part of the adjoining county for all purposes effective January 1 of the year following the election.

(6) The property valuation administrator of the original county shall transfer the property tax rolls of the property within the territory to the property valuation administrator of the county to which the property is transferred by the effective date of the transfer and following the transfer, the property within the territory shall become part of the tax base of the county to which it is transferred.

(7) The county receiving the property shall inform the Secretary of State and the Department for Local Government of the transfer and the exact boundaries of the territory transferred within thirty (30) days of the effective date of the transfer.

Section 2. The provisions of this Act shall only take effect upon the approval of a proposed amendment to Section 64 of the Constitution of Kentucky submitted to the voters at the regular election held November 7, 2000, that authorizes the division of a county based upon the submission of the question only to persons residing within the territory to be stricken. Absent approval of the proposed amendment at that regular election, the provisions of this Act shall be void.

HB 925, AN ACT relating to occupational license taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the General Assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) ***(a)*** The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution and statutes of this state now or hereafter enacted.

(b) A fiscal court may, through the passage of an ordinance, apply a credit of up to one hundred twenty-five percent (125%) of the poverty level of income for a family of four (4) designated by the Community Services Administration of the United States Government, during the year in which the tax is assessed, to each person subject to a license fee or tax on salaries, wages, commissions, or other compensation.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums, and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation, and wildlife;

(i) Control of floods;

(j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety, or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial, and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning, and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation, or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 to 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including, but not limited to, training, educational services, and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses, and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures; and

(z) Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.

(8) (a) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. These powers, other than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint ownership of property, or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to insure that benefits among the participating governments are relative to costs among them. If the personnel or equipment of one (1) government is provided for a second government, the second government shall fully compensate the first through the reciprocal provision of services or through monetary compensation.

(b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

Section 2. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate or rates not to exceed one and one-fourth percent (1.25%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;[~~,~~] and

(b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.

License fees imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in other cases where the county is prohibited by law from imposing a license tax.

(2) ***The fiscal court may, through the passage of an ordinance, apply a credit of up to one hundred twenty-five percent (125%) of the poverty level of income for a family of four (4) designated by the Community Services Administration of the United States Government, during the year in which the tax is assessed, to each person subject to the license fees imposed under paragraph (a) of subsection (1) of this section.***

(3) The provisions and limitations of ***subsections***[~~subsection~~] (1) ***and (2)*** shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 3. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax. ***A fiscal court may, through the passage of an ordinance, apply a credit of up to one hundred twenty-five percent (125%) of the poverty level of income for a family of four (4) designated by the Community Services Administration of the United States Government, during the year in which the tax is assessed, to each person subject to the license fees imposed under paragraph (a) of this subsection.***

(2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

Section 4. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing. License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on***:***

(a) Salaries, wages, commissions***,*** and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages")***;***[~~,~~] and

(b) The net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").

Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or in any other case where the city is prohibited by statute from imposing a license tax. ***The board of aldermen may, through the passage of an ordinance, apply a credit of up to one hundred twenty-five percent (125%) of the poverty level of income for a family of four (4) designated by the Community Services Administration of the United States Government, during the year in which the tax is assessed, to each person subject to the license fees levied under paragraph (a) of this subsection.***

(2) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1.25%).

(3) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(4) Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(5) The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:

(a) The purchase of rights of way for highways, expressways, and the widening of existing streets;

(b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;

(c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;

(d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;

(e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;

(f) The purchase and installation of traffic control devices and fire alarm equipment;

(g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;

(h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and

(i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.

(6) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(7) Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 5. KRS 92.280 is amended to read as follows:

(1) Except as provided in KRS 132.487, the legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

(3) A city legislative body may, through the passage of an ordinance, apply a credit of up to one hundred twenty-five percent (125%) of the poverty level of income for a family of four (4) designated by the Community Services Administration of the United States Government, during the year in which the tax is assessed, to each person subject to the license fees imposed under subsection (2) of this section on salaries, wages, commissions, or other compensation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As soon as practicable each year after the United States Community Services Administration designates the poverty level of income for a family of four (4), the Department for Local Government shall notify each city, county, urban-county government, and charter county government of that amount for the maximum credit designated in Sections 1 to 5 of this Act for license fees imposed on salaries, wages, commissions, or other compensation.

HB 931, AN ACT relating to county ordinances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every county shall have the power to establish fines, penalties, and forfeitures that may be imposed for violation of its ordinances, and may secure injunctions and abatement orders, when appropriate, to insure compliance with its ordinances.

(2) A county may make the violation of any of its ordinances a misdemeanor or a violation by the express terms of the ordinance. When an offense is designated by ordinance as a misdemeanor, a criminal fine not to exceed the amounts set forth in KRS 534.040(2)(a), or a term of imprisonment not to exceed the periods set forth in KRS 532.090(1), or both, may be imposed for the offense. When an offense is designated by ordinance as a violation, a criminal fine not to exceed the amounts set forth in KRS 534.040(2)(c) may be imposed for the offense.

(3) As an alternative to or in conjunction with the criminal penalties authorized by subsection (2) of this section, an ordinance may provide by its express terms that a violation shall subject the offender to a civil penalty to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he or she has been cited for the violation of the ordinance.

(4) A county ordinance may provide a fine, penalty, forfeiture, or term of imprisonment for an act or omission to act that is also an offense under the Kentucky Revised Statutes. In that case, the fine, penalty, forfeiture, or term of imprisonment imposed by the ordinance shall not be less than or greater than that imposed by statute for the same offense.

(5) A county ordinance may provide, when appropriate, that each day a violation of the ordinance continues shall be a separate and distinct offense.

(6) Subject to the express terms of the ordinance, a county ordinance may be enforced by any one, all, or a combination of the remedies authorized by this section.

(7) Except where the charge of a violation of a county ordinance is joined with an indictment for a felony as provided in KRS 24A.110(2), the violation of all county ordinances prescribing a criminal penalty as authorized in subsection (2) of this section shall be prosecuted in the District Courts of the Commonwealth. The county attorney shall prosecute all violations of county ordinances for which the criminal penalties authorized by subsection (2) of this subsection may be imposed. The county attorney shall pursue all violations of ordinances for which a civil penalty or forfeiture may be imposed, or involving injunctive relief or abatement, by filing a petition with the court of appropriate jurisdiction. Nothing in this section shall be intended to preclude any remedy for the violation of a county ordinance, including any administrative remedy, authorized by any other statute.

HB 938, AN ACT relating to zoning ordinances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone[~~, which must be uniform throughout the zone~~]. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

  (a) Setback lines may be required for the protection of existing and proposed streets and highways;

  (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

  (c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when ***any aspect of*** a proposed development requires ***planning commission approval***[~~a map amendment~~] and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section***, the***[~~:~~

  ~~(a) The~~] text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, ***and shall retain continuing jurisdiction over any modifications, revisions, or deletions from an approved variance, an approved conditional use permit, or conditions of approval relating to any of those approved variances or approved conditional use permits*** in a circumstance provided for by subsection (5) of this section;[~~ and~~

  ~~(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;~~]

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

  (a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

  (b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

  (c) Impose screening and buffering restrictions upon the subject property;

  The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced.

The Committee Amendment No. 1 to **HB 938** is as follows:

On page 2, line 27, after the words "***planning commission***" by deleting the word "***approval***" and by inserting in lieu thereof "***consideration and action***".

HB 995, AN ACT relating to local government insurance premium taxes.

WHEREAS, Section 181 of the Constitution of this Commonwealth prohibits the General Assembly from imposing license fees or taxes for the purpose of any local government, but permits the General Assembly by general laws to confer on the proper authorities of any local government the power to assess and collect license fees or taxes; and

WHEREAS, authority to assess and collect license fees or taxes on insurance companies has been conferred on local governments under KRS 91A.080; and

WHEREAS, license fees and taxes are currently levied by more than 300 county, city, and urban-county governments upon premiums collected by insurance companies; and

WHEREAS, license fees and taxes are customarily payable in four quarterly installments with a fifth and final balancing payment after the close of the calendar year; and

WHEREAS, the filing and processing of such an enormous number of returns, both quarterly and annually, constitutes an unreasonable administrative burden to the insurance companies and to the local governments imposing license fees and taxes; and

WHEREAS, the General Assembly finds that the administrative burden will be eliminated to the benefit of all parties involved by providing for the remittance of city and urban-county taxes to the Kentucky League of Cities and of county taxes to the Kentucky Association of Counties in single consolidated payments and by the allocation and disbursement of these taxes by the Kentucky League of Cities to cities and urban-counties and by the Kentucky Association of Counties to counties in single consolidated payments;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 9 of this Act:

(1) "Local government" means a city, county, urban-county, or charter county government.

(2) "Commissioner" means the commissioner of the Department of Insurance.

Section 2. KRS 91A.080 is repealed, reenacted as a new section of KRS Chapter 65, and amended to read as follows:

(1) The legislative body of each ***local***[~~city, county, or urban-county~~] government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those ***local***[~~cities, county, or urban-county~~] governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a ***local***[~~city, county, or urban-county~~] government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied ***only*** to the amount of the premiums ***for the first twelve (12) months of coverage*** actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the ***local***[~~city, county, or urban-county~~] government.

(3) Any license fee or tax imposed by a ***local***[~~city, county, or urban-county~~] government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the ***local***[~~city, county, or urban-county~~] government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the ***local***[~~city, county, or urban-county~~] government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the ***local***[~~city, county, or urban-county~~] government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the ***local***[~~city, county or urban-county~~] government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any ***local***[~~city, county, or urban-county~~] government, at the expense of the requesting ***local***[~~city, county, or urban-county~~] government, which shall be paid in advance by the ***local***[~~city, county, or urban-county~~] government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the ***local***[~~city, county, or urban-county~~] government. Willful failure to properly collect and remit the fee or tax imposed by a ***local***[~~city, county, or urban-county~~] government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each *local*[~~city, county, or urban-county~~] government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;
(b) Automobile;
(c) Inland marine;
(d) Fire and allied perils;
(e) Health; and
(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. *The*[~~Such~~] interest payable to the *local*[~~city, county, or urban-county~~] government is separate of penalties provided for in subsection (7) of this section. No *local*[~~city, county, or urban-county~~] government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

On or before August 1, 2000, each insurance company subject to the provisions of Section 2 of this Act shall make an election on a form provided by the Department of Insurance whether to remit license fees or taxes beginning with calendar year 2001 and all subsequent years under the procedures of Section 2 or Section 4 of this Act. On and after January 1, 2001, an insurance company that has elected to continue to pay license fees or taxes under the procedures of Section 2 of this Act may elect to pay license fees or taxes under the procedures in Section 4 of this Act only with the approval of the commissioner and by complying with any requirements that may be imposed by the Department of Insurance. An election made under this section may not be subsequently changed by an insurance company without the written approval of the commissioner; however, subject to Section 9 of this Act, an insurance company's initial election to be subject to the provisions of Section 4 of this Act shall not be changed for at least three (3) years. For insurance companies making application for a certificate of authority to do business in this Commonwealth, the election shall be filed with the company's application for the certificate of authority.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This section shall apply only to those insurance companies that have elected to levy license fees or taxes imposed as provided by subsection (1) of Section 2 of this Act and to remit those taxes under the procedures in this section.

(1) As used in this section, "administrator" means the Kentucky League of Cities with respect to license fees or taxes imposed by cities and urban-county governments and the Kentucky Association of Counties with respect to license fees or taxes imposed by counties and charter counties. The Kentucky League of Cities and the Kentucky Association of Counties shall act in concert in administering license fees and taxes under this section.

(2) Any license fee or tax imposed by a local government upon an insurance company with respect to life insurance policies may be based upon premiums and, if so based, shall be applied only to premiums for the first twelve (12) months of coverage actually collected upon the lives of persons residing within the corporate limits of the local government.

(3) Any license fee or tax imposed by a local government upon any insurance company with respect to any policy that is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar year on risks located within the corporate limits of the local government on those classes of business that the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the administrator, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next annual report to the administrator. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the workers' compensation laws.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected for each local government and remitted to the administrator or two percent (2%) of the premiums subject to the tax, whichever is less.

(5) To facilitate computation, collection, and remittance of the fee or tax and the collection fee provided in this section, the fees or taxes and the collection fee in this section may be rounded off to the nearest dollar amount.

(6) In accordance with KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(7) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee shall be determined by administrative regulations promulgated by the Department of Insurance.

(8) Upon written request of the legislative body of any local government or the administrator at the expense of the requesting local government or the administrator, and payable in advance to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted. The findings of the examination shall be reported to the local government or the administrator. If after examination an additional amount of tax is found to be due, the cost of the examination by the department shall be shifted to the insurer, which shall reimburse the local government or the administrator. Willful failure to properly collect and remit the fee or tax imposed by a local government to the administrator shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(9) (a) License fees and taxes imposed by cities and urban-county governments and paid under the procedures in this section shall be administered by the Kentucky League of Cities. License fees and taxes imposed by counties and charter counties and paid under procedures in this section shall be administered by the Kentucky Association of Counties.

(b) Each local government imposing license fees or taxes shall be deemed to have designated, appointed, and authorized the administrator as its lawful agent to receive and administer license fees and taxes the local government has imposed. Tax payments by insurance companies to the administrator shall be deemed to have been received by the local governments on behalf of which taxes are remitted.

(c) Annually, on or before the last day of April, every insurance company authorized to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in this section shall calculate and report to the administrator the license fees and taxes imposed upon it by each local government for the immediately preceding calendar year according to this section and shall remit to the administrator the amount, if any, by which a company's license fees and taxes for the year for any local government exceeds the estimated taxes it paid to that taxing authority for the year. All license fees and taxes imposed by each local government according to this section shall be reported by insurance companies to the administrator on a single annual return developed by the administrator and the Department of Insurance for annual filings by insurance companies. At the time of filing the annual return with the administrator, every insurance company electing to remit license fees or taxes under the procedures in this section shall file a duplicate copy of its annual return with the Department of Insurance. The annual return shall contain a breakdown of all collections for the preceding calendar year for the following categories of insurance for each local government:

1. Casualty;

2. Automobile;

3. Inland marine;

4. Fire and allied perils;

5. Health; and

6. Life.

(d) The administrator shall promptly account to each local government for all license fees and taxes paid by insurance companies and, on or before every June 30, shall remit to each governing body the amount, if any, by which the governing body's total license fees or taxes reported and paid by all insurance companies for the immediately preceding calendar year exceeds the quarterly estimated taxes previously allocated and remitted to the governing body for the year under paragraph (e) of this subsection. If quarterly estimated taxes allocated and remitted to a local government for a calendar year exceed the governing body's total annual license fees or taxes reported and paid by all insurance companies for the calendar year, the administrator shall deduct the overpayment of quarterly estimated taxes from the next and succeeding remittances of quarterly estimated taxes under paragraph (e) of this subsection until the overpayment is fully recovered from the governing body.

(e) On or before every March 31, June 30, September 30, and December 31, every insurance company authorized

to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in this section shall pay quarterly estimated taxes to the administrator. The amount of the quarterly payment due on or before March 31 shall be one hundred four percent (104%) of the quarterly payment due on or before December 31 of the immediately preceding calendar year, and the amount of each quarterly payment due on or before June 30, September 30, and December 31 shall be twenty-six percent (26%) of the total annual license fees and taxes reported by the insurance company for all local governments on its annual return under paragraph (c) of this subsection for the immediately preceding calendar year. Quarterly payments received on or before the fifth business day after the due date shall be allocated and paid over to each local government imposing license fees or taxes on or before the last day of the calendar month following the due date. The amount of quarterly estimated taxes allocated and remitted to a governing body with respect to quarterly estimated taxes due on or before March 31 shall be determined on the same basis as the amount of quarterly estimated taxes allocated and remitted to governing bodies with respect to quarterly estimated taxes due on or before December 31 of the immediately preceding calendar year. The amount of quarterly estimated taxes allocated and remitted to a governing body with respect to quarterly estimated taxes due on or before June 30, September 30, and December 31 shall be in the same proportion to the total quarterly estimated taxes paid by all insurance companies for the quarter as the governing body's total annual license fees or taxes from all insurance companies for the immediately preceding calendar year is to the total annual license fees and taxes of all insurance companies payable to all local governments for the year. Quarterly payments received by the administrator after the fifth business day following the due date shall be held by the administrator and remitted with the following quarterly or annual payment.

(f) The administrator shall hold all amounts received by it from insurance companies electing to remit license fees or taxes under the procedures in this section, including interest or investment income earned on these funds, in a fiduciary capacity. All amounts held by the administrator shall be invested in accordance with the provision of KRS 66.480. All interest or investment income on funds in the administrator's accounts at the close of business on the fifth business day following any due date of quarterly estimated taxes shall be allocated and paid to local governments not later than the last day of the calendar month in which that fifth business day occurs. Nothing in this paragraph shall preclude the administrator from allocating and disbursing amounts received after the fifth business day at the end of the month in which the fifth business day occurs.

(g) Any overpayment of tax shown on the annual return of an insurance company filed under paragraph (c) of this subsection may be allowed as a credit against that company's succeeding payments of quarterly estimated taxes under paragraph (e) of this subsection until fully recovered. In the alternative, any insurance company reporting an overpayment of tax of one thousand dollars ($1,000) or more on its annual return under paragraph (c) of this subsection may request a refund of the overpayment in lieu of credits against quarterly estimated taxes payable under paragraph (e) of this subsection. A refund under this paragraph shall be requested on the annual return filed under paragraph (c) of this subsection and shall be paid by the administrator no later than four (4) months after the due date of the annual return or the date the annual return was received by the administrator, whichever is later. An insurance company that has ceased doing business in this Commonwealth may request a refund as provided in this paragraph without regard to the one thousand dollar ($1,000) threshold.

(h) The administrator shall recommend rules for adoption to the commissioner to provide for the orderly receipt and disbursement of license fees and taxes under this section. The rules shall provide for:

1. Accounting for the receipt and disbursement of license fees and taxes imposed by each local government upon insurance companies doing business in this Commonwealth;

2. Allocating quarterly estimated taxes on the basis of the governing body's total annual license fees or taxes remitted for the immediately preceding calendar year as a percentage of total license fees and taxes remitted on behalf of all insurance companies to all local governments for the year; and

3. Electronic reporting on annual returns.

(i) The administrator may recommend additional rules for adoption to the commissioner to expedite the payment and transfer of license fees and taxes paid under the procedures in this section.

(j) The administrator shall report collections and disbursements of license fees and taxes to the Department of Insurance annually on or before July 31. The report shall cover all license fees and taxes collected and disbursed by the administrator for the preceding calendar year, including any interest or investment income therein.

(k) Every insurance company electing to remit license fees or taxes under the procedures in this section and filing an annual return under paragraph (c) of this subsection shall pay to the administrator with the annual return a fee to defray the annual cost to the administrator of administering license fees and taxes imposed under the procedures in this section. The fee payable to the Kentucky League of Cities as administrator shall be the lesser of three hundred fifty dollars ($350) or five percent (5%) of the total taxable premiums reported for cities and

urban-county governments on the annual return. The fee payable to the Kentucky Association of Counties as administrator shall be the lesser of one hundred seventy-five dollars ($175) or five percent (5%) of the total taxable premiums reported for counties or charter counties on the annual return. If the commissioner determines that the fees specified under this subsection are inadequate for funding the continued operations of the administrator, then he or she may increase the fees by up to one hundred fifty dollars ($150) for each administrator.

(10) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Interest payable to the administrator is separate of penalties provided for in subsection (8) of this section. All interest shall be accounted for or allocated to and paid to each local government whose taxes were not remitted on or before the due date. No local government or the administrator may impose any penalties other than those provided for in this subsection.

(11) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(12) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies that pay ad valorem taxes.

(13) Insurance companies that pay license fees or taxes under this section shall credit city license fees or taxes against the same license fees or taxes levied by the county when the license fees or taxes are levied by the county on or after July 13, 1990.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply only to those insurance companies that have elected to remit license fees or taxes under the procedures in Section 4 of this Act.

(2) Every insurance company licensed to do business in this Commonwealth at any time during 2000 and electing to remit license fees or taxes under the procedures in Section 4 of this Act shall file with the Kentucky League of Cities and the Kentucky Association of Counties on or before February 28, 2001, an information return reporting with respect to calendar year 2000 the license fees and taxes reportable under subsection (9)(c) of Section 4 of this Act as if Section 4 of this Act had applied to premiums received and business transacted during calendar year 2000. On or before March 31, 2001, June 30, 2001, September 30, 2001, and December 31, 2001, every insurance company authorized to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in Section 4 of this Act shall remit to the Kentucky League of Cities and the Kentucky Association of Counties twenty-six percent (26%) of the taxes reported on the February 28, 2001 return. Quarterly estimated taxes payable in 2001 shall be based upon the total amount of license fees and taxes for 2000 reported in the information returns required in this section to be filed with the Kentucky League of Cities and the Kentucky Association of Counties for business transacted during calendar year 2000. On or before April 30, 2001, July 31, 2001, October 31, 2001, and January 31, 2002, the Kentucky League of Cities and the Kentucky Association of Counties shall allocate and pay over to each local government quarterly estimated taxes received on or before the fifth business day of the month. The amount of quarterly estimated taxes allocated and remitted to a governing body shall be in the same proportion to the total quarterly estimated taxes paid by all insurance companies for the quarter as the governing body's total annual license taxes and fees for all insurance companies reported on information returns for 2000 under this section is to the total annual license fees and taxes of all insurance companies for all local governments reported on those returns. The Department of Insurance shall assist the Kentucky League of Cities and the Kentucky Association of Counties in the implementation and administration of Sections 1 to 9 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a Local Government Premiums Tax Administrator Advisory Council to review and advise the commissioner on any issues that may impact the operation of the administrator as established in Section 4 of this Act. The advisory council shall consist of eight (8) members: the chairman, who shall be the commissioner, and seven (7) members selected by the commissioner with the advice of the Kentucky League of Cities, the Kentucky Association of Counties, representatives of Kentucky insurance agents, and insurance industry representatives of companies electing to remit license fees or taxes under the procedures in Section 4 of this Act. Members of the advisory council may serve up to two (2) years at the sole discretion of the commissioner.

(2) Members selected by the commissioner shall be:

(a) One (1) representative of life and health insurers currently electing to remit license fees or taxes under the procedures in Section 4 of this Act;

(b) One (1) representative of property and casualty insurers currently electing to remit license fees or taxes under the procedures in Section 4 of this Act;

(c) One (1) representative of Kentucky insurance agents;

(d) Two (2) member representatives of the Kentucky League of Cities; and

(e) Two (2) member representatives of the Kentucky Association of Counties.

(3) The advisory council shall:

(a) Review and advise on the design and plan of operations of the administrator;

(b) Review and advise on the filing process for all participating insurers;

(c) Review and advise on distributions of quarterly and annual taxes, including interest and investment income to local governments;

(d) Review and advise on the costs associated with the administrator;

(e) Review and advise on the efficiency and effectiveness of the administrator;

(f) Review and advise on the accuracy and adequacy on records maintained by the administrator;

(g) Review and advise on complaints and grievances from local governments and insurers regarding the administrator;

(h) Review and advise on administrative regulations concerning Sections 1 to 9 of this Act that may be promulgated by the Department of Insurance; and

(i) Review and advise on other issues at the request of the commissioner.

(4) The advisory council shall not be a budgetary unit of the Department of Insurance or the administrator. Members and their respective agencies or associations may, at their discretion, furnish office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of its functions.

(5) The administrator shall submit an annual report to the Department of Insurance and the advisory council. The annual report shall describe the general operations of the administrator from the previous year and operational plans for the coming year.

(6) The annual report shall include, but not be limited to:

(a) Audited financial statements for the immediately preceding two (2) years;

(b) Pro forma financial statements and underlying assumptions;

(c) Projected budget;

(d) Amendments to policies and procedures;

(e) Grievances;

(f) Legal proceedings;

(g) Management contracts, administrative contracts, cost-sharing contracts, and other material contracts;

(h) Any other additional information, documents, or materials that the administrator deems necessary or desirable for full and adequate disclosure; and

(i) Any other additional information, documents or materials that the commissioner or advisory council may request in writing.

(7) The advisory council shall meet at least once annually to review the operations of the administrator. The advisory council may make a report regarding the operations of the administrator. The commissioner of the Department of Insurance may accept or reject all or any part of the report.

(8) The sole function of the advisory council is to provide advice and guidance to the commissioner of the Department of Insurance regarding the structure and operations of the administrator. No member of the advisory council shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of the advisory council or any member thereof.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) To determine whether there has been any unauthorized, illegal, irregular, or unsafe handling or expenditure of local government tax receipts or other improper practice of financial administration and to assure that all proper items have been duly charged, taxed, accounted for, reported, and distributed to the appropriate local government, the Auditor of Public Accounts shall be responsible for an annual audit of the administrator as if it were a state agency. The audit shall consider:

(a) Funds contained in the administrator's accounts and budget; and

(b) Funds contained in any fiduciary or nonfiduciary qualified, segregated, or administered account.

(2) As appropriate under generally accepted auditing standards, the Auditor of Public Accounts may audit those aspects of the administrator's operations or the operations of the Kentucky League of Cities, the Kentucky Association of Counties, or any other third party contracting with the administrator that directly relates to administration of the tax.

(3) The Auditor of Public Accounts shall have access to all books, accounts, and papers of the administrator.

(4) Within a reasonable time after completion and distribution of audit reports authorized by subsections (1) and (2) of this section, the Auditor of Public Accounts shall bill the administrator for the expenses of the audit. A copy of the bill shall

be forwarded to the commissioner. If within sixty (60) days following receipt of the bill, the commissioner determines the charge to be excessive or otherwise improper, he or she shall submit his or her objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution in accordance with subsection (6) of this section. If the amount billed has not been paid within sixty (60) days from the date rendered and if no objection has been filed, the Auditor of Public Accounts shall notify the commissioner who shall cause one-half (1/2) of the amount to be deducted pro rata from the next payment or distribution of moneys to counties and municipalities under Section 4 of this Act. Deductions shall continue until one-half (1/2) of the amount due the Auditor of Public Accounts has been paid. All moneys received under this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to a bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (6) of this section, the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) The administrator and the Department of Insurance shall each be responsible for paying one-half (1/2) of the final bill for the audit conducted in accordance with subsections (1) and (2) of this section.

(6) Any controversy over the amount of a bill for the actual expenses incurred by the Auditor of Public Accounts shall be submitted to the secretary of the Finance and Administration Cabinet and the State Treasurer for a final decision as to the proper amount.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The administrator shall file with the commissioner a blanket faithful performance bond issued by an authorized corporate surety that shall be conditioned upon the faithful performance of the requirements of the administrator as set forth in Sections 1 to 9 of this Act and in any administrative regulations promulgated and shall cover acts of employee dishonesty. The performance bond shall be for the benefit of, and payable to, the local governments imposing taxes and fees paid under the procedures in Section 4 of this Act. The commissioner shall disapprove any bond if he or she determines that the coverage is inadequate, the limits are inadequate, the surety is inadequate, or the corporate surety is not rated in one (1) of the three (3) highest rating categories by a nationally recognized rating agency.

(2) The corporate surety shall not terminate the bond required by subsection (1) of this section without prior written approval of the commissioner. The corporate surety shall deliver written notice of termination to the administrator and shall file the notice of termination with the commissioner for approval or disapproval at least thirty (30) days prior to the intended date of termination.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Except as provided in Sections 1 to 9 of this Act, Section 5 of this Act shall apply to premiums received and business transacted on or after January 1, 2001. If the commissioner determines that an insufficient number of insurance companies has made an election to be subject to Section 4 of this Act prior to August 31, 2000, he or she may suspend or revoke the effectiveness of the elections of all insurance companies making an election to be subject to Section 4 of this Act until the commissioner finds there is a sufficient number of insurance companies to adequately fund the administrator. If the commissioner suspends or revokes the effectiveness of all the elections under Sections 1 to 9 of this Act, he or she shall do so by administrative order, and the order shall specify whether companies may be required to make new elections at a later date and may contain any other terms that the commissioner deems reasonable for efficient implementation of Sections 1 to 9 of this Act. Every insurance company electing under this section to remit license fees or taxes under the procedures in Section 4 of this Act shall remit with its election under this section a one-time fee to defray the administrator's costs in establishing procedures for the receipt and distribution of license fees or taxes under Section 4 of this Act. The amount of the one-time fee payable under this section shall be as prescribed in subsection (9)(k) of Section 4 of this Act except that the percentage of premiums limitation shall be based on an insurance company's municipal and county premiums reported under KRS 91A.080 for calendar year 1999. If the commissioner suspends or revokes insurance company elections, any fees paid with the filing of the election shall be refunded.

The Committee Amendment No. 1 to **HB 995** is as follows:

On Page 2, line 21, by bracketing and striking through, "the first year's"; and

On Page 2, line 23, by bracketing and striking through, "within each calendar quarter"; and

On Page 6, line 12, by deleting "*levy*" and inserting in lieu thereof, "*remit*".

The Committee Amendment No. 2 to **HB 995** is as follows:

On Page 2, Line 4, after the word "*government*" by inserting the following, "*, except counties containing a city of the first class and cities of the first class*"

HB 1000, AN ACT relating to county license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ***ordinance***[~~order or resolution~~] impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(5) On the effective date of this Act, the provisions of subsection (4) of this section notwithstanding, city license fees, enacted under this section or KRS 67.083, not credited against county license fees as of January 1, 2000, shall not be credited against county license fees; however, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(6) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 2. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

  (a) Casualty;
  (b) Automobile;
  (c) Inland marine;
  (d) Fire and allied perils;
  (e) Health; and
  (f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) ***(a)*** Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

  (b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license

fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

The Committee Amendment No. 1 to **HB 1000** is as follows:

On page 2, line 26 after the words "*city license fees,*" by deleting the words "***, enacted under this section or KRS 67.083,***"; and

On page 2, line 27, after the word "***county license fees***" by adding "***, enacted under this section or KRS 67.083,***".

HCR 147, A CONCURRENT RESOLUTION creating an Advisory Committee on City and County Relations.

WHEREAS, the economic prosperity and overall quality of life of the Commonwealth's citizens are intertwined with and dependent upon the financial stability and well-being of the Commonwealth's cities and counties; and

WHEREAS, the Commonwealth's cities and counties face a staggering array of service responsibilities, infrastructure and capital improvement needs, and other costly governmental issues; and

WHEREAS, the cities and counties of the Commonwealth of Kentucky are finding it increasingly difficult to raise the tax revenue necessary to fund expanding service needs, maintain or replace aging infrastructure, and address the many other local problems that place demands on financial resources; and

WHEREAS, the cities and counties of the Commonwealth of Kentucky are increasingly involved in conflicts over such issues as service responsibility, tax base allocation, annexation, and land use planning; and

WHEREAS, it is clear that the problems confronting the cities and counties of the Commonwealth of Kentucky require the immediate attention of state and local leaders;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) The Advisory Committee on City and County Relations is hereby established. The Advisory Committee's membership shall include:

(a) Two (2) members of the Senate appointed by the President of the Senate;
(b) Two (2) members of the House of Representatives appointed by the Speaker of the House of Representatives;
(c) The secretary of the Revenue Cabinet;
(d) The commissioner of the Department for Local Government, or the commissioner's designee;
(e) Six (6) city officials appointed by the governing body of the Kentucky League of Cities;
(f) Two (2) county officials appointed by the governing body of the Kentucky Association of Counties;
(g) Two (2) county judge/executives appointed by the governing body of the Kentucky County Judge/Executive Association; and
(h) Two (2) county magistrates appointed by the governing body of the Kentucky County Magistrates Association.

(2) The chair and co-chair shall be appointed by the Legislative Research Commission.

(3) The appointments in paragraphs (e) to (h) of subsection (1) of this section shall be subject to the approval of the Legislative Research Commission.

(4) (a) The Advisory Committee on City and County Relations shall examine the issues and problems facing the Commonwealth's cities and counties. These issues and problems include, but are not limited to:
1. Overlapping, inefficient service delivery;
2. Identification of the principal beneficiaries of local government services;
3. Allocation of taxing authority; and
4. Identification of various city and county tax bases.

(b) The Advisory Committee on City and County Relations may make specific recommendations concerning, but not limited to the following:
1. Recommendations for allocating future service responsibilities between cities and counties; and
2. Recommendations regarding the allocation of taxing authority between cities and counties, based on assigned service responsibilities.

Section 2. The Advisory Committee on City and County Relations shall report its findings to the Legislative Research Commission no later than August 1, 2001.

Section 3. Provisions of this resolution to the contrary not withstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 113, AN ACT changing the classification of the City of Indian Hills, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Indian Hills, in Jefferson County, is such as to justify its being classified as a city of the fourth class;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Indian Hills, in Jefferson County, is transferred from the fifth to the fourth class of cities.

SB 149, AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) It is the finding of the General Assembly that a contracting body entering into a contract with an individual, firm, partnership, or corporation for professional services, and a contracting body entering into an agreement with any other government agency for the exchange of resources or responsibilities, utilizes funds appropriated by the General Assembly.

(2) It is the finding of the General Assembly that personal service contracts, memoranda of agreement, and amendments thereto and other documents filed with the Government Contract Review Committee of the Legislative Research Commission shall be reviewed for specific statutory purposes, and that any such review must be completed prior to any payment or transfer of funds, resources, or responsibilities.

(3) It is the finding of the General Assembly that provisions of the Kentucky Revised Statutes requesting a contracting body to provide information to the Government Contract Review Committee of the Legislative Research Commission, to participate in discussions relative to any contract or agreement, or to provide adequate assurance that funds appropriated by the General Assembly are utilized in an efficient manner, is an appropriate exercise of legislative authority and is necessary in the discharge of its legislative duties.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Memoranda of agreement between state agencies and state universities or colleges shall be exempt from routine review by the Government Contract Review Committee and shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes.

(2) The Government Contract Review Committee shall examine all memoranda of agreement between state agencies and state universities or colleges submitted more than thirty (30) days after the effective date.

(3) The Government Contract Review Committee may periodically examine memoranda of agreement between state agencies and state universities or colleges and may request agency participation in discussions relative to their agreements or payments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Government Contract Review Committee may require that testimony be given under oath, which may be administered by the chair or by any other person authorized by law to administer oaths. The committee may also require that the testimony be recorded by an official court reporter or other competent person. The transcript, when written, certified, and approved by the recorder and transcriber as being the direct transcript of the testimony, shall be prima facie evidence of a correct statement of the testimony. The recorder and transcriber's signature shall be affixed to the transcript and duly acknowledged before a notary public.

Section 4. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property; ***and***

(f) For visiting speakers, professors, expert witnesses, and performing artists~~[; and~~

~~(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725]~~.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 5. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) "Committee" means the Government Contract Review Committee of the Legislative Research Commission;

(b) "Contracting body" means ***any***~~[each]~~ state board, bureau, commission, ***cabinet,*** department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c) "Governmental emergency" means an unforeseen event or set of circumstances that creates an emergency condition as ***defined in Section 4 of this Act***~~[determined by the committee by promulgation of an administrative regulation]~~;

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between~~[state agencies and state universities or colleges and agreements between]~~ state universities or colleges and employers of students in the Commonwealth work-study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health Services, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.60-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs; or

11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one (1) contract; and

(f) "Personal service contract" means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon. It includes all price contracts for personal services between a governmental body or political subdivision of the commonwealth and any other entity in any amount. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health Services, individuals performing homemaker services, and transit authorities;

3. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;

4. Agreements between a state agency and rural concentrated employment programs;

5. Agreements between the State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board; or

6. Any other contract that the committee deems inappropriate for consideration;

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract or memorandum of agreement valid.

Section 6. KRS 45A.695 is amended to read as follows:

(1) Except as provided in subsection (8) of this section, no one shall begin work on a personal service contract entered into by any contracting body, until notification of the personal service contract is filed with the committee. Each personal service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each personal service contract and memorandum of agreement shall be filed with the committee prior to the effective date and shall be accompanied by a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;

(c) The total projected cost of the contract or agreement and source of funding;

(d) The total projected duration of the contract;

(e) Payment information, in detail;

(f) In the case of memoranda of agreement or similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate.

(3) Adequate notice of the need for a personal service contract shall be given ***as follows:***

(a) 1. Adequate notice of personal service contracts in aggregate amounts over ten thousand dollars ($10,000) shall be given by the contracting body through a request for proposals***; and***[~~.~~]

2. ***A***[~~The~~] request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(b) Adequate notice of personal service contracts in aggregate amounts of ten thousand dollars ($10,000) or less shall require, whenever feasible, solicitation of at least three (3) quotes for the needed service. Any determination of unfeasibility shall be in writing and submitted to the secretary of the Finance and Administration Cabinet and to the committee. The secretary of the Finance and Administration Cabinet and the committee may review a determination of unfeasibility by a contracting body.

(4) The head of the contracting body or his designee may conduct discussions with any offeror who has submitted a proposal

to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or his designee, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The committee shall maintain a record or have readily accessible records of the date on which each personal service contract and memorandum of agreement was received and shall maintain or have access to electronic or paper files on all personal service contracts and memoranda of agreement. Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.

(7) Payment on personal service contracts and memoranda of agreement submitted to the committee for approval shall not be made ***before completion of the review process and shall not be made*** for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet ***and***[~~or~~] agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized ***until completion of the review process by the committee and shall not be authorized*** for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet ***and***[~~or~~] agency head, if the agency has been granted delegation authority.

(8) In the event of a governmental emergency as defined under KRS 45A.690, work may begin prior to filing notification of the personal service contract with the committee, if the secretary of the Finance and Administration Cabinet ***and the agency head, if the agency has been granted delegation authority,***[~~ or his designee~~] determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and the normal process will not accommodate the governmental emergency. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.

(9) If a governmental emergency exists as defined under KRS 45A.690 and work is authorized to begin on a personal service contact immediately, a ***detailed***[~~copy of a~~] statement, ***setting forth the nature of the emergency,*** approved by the secretary of the Finance and Administration Cabinet ***and the agency head, if the agency has been granted delegation authority,***[~~or his designee, setting forth in detail the nature of the emergency~~] shall be filed with the committee[~~, along with a copy of the personal service contract~~].

Section 7. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of seven (7) members that shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the committee from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairperson. Any vacancy that may occur in the membership of the committee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The committee shall meet monthly at the time and place as the chairperson may determine. A quorum shall require at least four (4) members present and the vote shall be by majority. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All proposed personal service contracts and memoranda of agreement received by the Legislative Research Commission shall be submitted to the committee to:

(a) Examine the stated need for the service;

(b) Examine whether the service could or should be performed by state personnel;

(c) Examine the amount and duration of the contract or agreement; and

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the committee determines that the contract service or agreement, other than an emergency contract approved by the secretary of the Finance and Administration Cabinet or his designee, is not needed or inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or

responsibilities are inappropriate, the committee shall attach a written notation of the reasons for its disapproval or objection to the personal service contract or memorandum of agreement and shall return the personal service contract or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his designee. The committee shall act on a personal service contract or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received.

(6) Upon receipt of the committee's disapproval or objection to a personal service contract or memorandum of agreement, the secretary of the Finance and Administration Cabinet or his designee shall determine whether the personal service contract or memorandum of agreement shall:

(a) Be revised to comply with the objections of the committee;

(b) Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or

(c) Remain effective as originally approved.

(7) The secretary of the Finance and Administration Cabinet or his designee shall notify the committee of the action taken on personal service contracts and memoranda of agreement disapproved or objected to within ten (10) days from the date the personal service contracts or memoranda of agreement were reviewed by the committee.

~~[(8) Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his designee.]~~

The House Committee Substitute No. 1 to **SB 149** is as follows:

SB 149, AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) It is the finding of the General Assembly that a contracting body entering into a contract with an individual, firm, partnership, or corporation for professional services, and a contracting body entering into an agreement with any other government agency for the exchange of resources or responsibilities, utilizes funds appropriated by the General Assembly.

(2) It is the finding of the General Assembly that personal service contracts, memoranda of agreement, and amendments thereto and other documents filed with the Government Contract Review Committee of the Legislative Research Commission shall be reviewed for specific statutory purposes, and that any such review must be completed prior to any payment or transfer of funds, resources, or responsibilities.

(3) It is the finding of the General Assembly that provisions of the Kentucky Revised Statutes requesting a contracting body to provide information to the Government Contract Review Committee of the Legislative Research Commission, to participate in discussions relative to any contract or agreement, or to provide adequate assurance that funds appropriated by the General Assembly are utilized in an efficient manner, is an appropriate exercise of legislative authority and is necessary in the discharge of its legislative duties.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Memoranda of agreement between state agencies and state universities or colleges shall be exempt from routine review by the Government Contract Review Committee and shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes.

(2) The Government Contract Review Committee shall examine all memoranda of agreement between state agencies and state universities or colleges submitted more than thirty (30) days after the effective date.

(3) The Government Contract Review Committee may periodically examine memoranda of agreement between state agencies and state universities or colleges and may request agency participation in discussions relative to their agreements or payments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The Government Contract Review Committee may require that testimony be given under oath, which may be administered by the chair or by any other person authorized by law to administer oaths. The committee may also require that the testimony be recorded by an official court reporter or other competent person. The transcript, when written, certified, and approved by the recorder and transcriber as being the direct transcript of the testimony, shall be prima facie evidence of a correct statement of the testimony. The recorder and transcriber's signature shall be affixed to the transcript and duly acknowledged before a notary public.

Section 4. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated

by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property; ***and***

(f) For visiting speakers, professors, expert witnesses, and performing artists[~~; and~~

~~(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725~~].

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 5. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) "Committee" means the Government Contract Review Committee of the Legislative Research Commission;

(b) "Contracting body" means ***any***[~~each~~] state board, bureau, commission, ***cabinet,*** department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c) "Governmental emergency" means an unforeseen event or set of circumstances that creates an emergency condition as ***defined in Section 4 of this Act***[~~determined by the committee by promulgation of an administrative regulation~~];

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, interlocal agreement to which the Commonwealth is a party, privatization contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. It includes agreements by regional cooperative organizations formed by local boards of education or other public educational institutions for the purpose of providing professional educational services to the participating organizations and agreements with Kentucky Distinguished Educators pursuant to KRS 158.782. This definition does not apply to:

1. Agreements between the Transportation Cabinet and any political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between[~~ state agencies and state universities or colleges and agreements between~~] state

universities or colleges and employers of students in the Commonwealth work-study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health Services, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS 224.60-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs; or

11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one (1) contract; and

(f) "Personal service contract" means an agreement whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at a price agreed upon. It includes all price contracts for personal services between a governmental body or political subdivision of the commonwealth and any other entity in any amount. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, providers of direct Medicaid health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of Medicaid managed health care services established by law or by agreement with the Cabinet for Health Services, individuals performing homemaker services, and transit authorities;

3. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;

4. Agreements between a state agency and rural concentrated employment programs;

5. Agreements between the State Fair Board and judges, officials, and entertainers contracted for events promoted by the State Fair Board; or

6. Any other contract that the committee deems inappropriate for consideration;

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract or memorandum of agreement valid.

Section 6. KRS 45A.695 is amended to read as follows:

(1) Except as provided in subsection (8) of this section, no one shall begin work on a personal service contract entered into by any contracting body, until notification of the personal service contract is filed with the committee. Each personal service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each personal service contract and memorandum of agreement shall be filed with the committee prior to the effective date and shall be accompanied by a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;

(c) The total projected cost of the contract or agreement and source of funding;

(d) The total projected duration of the contract;

(e) Payment information, in detail;

(f) In the case of memoranda of agreement or similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate.

(3) Adequate notice of the need for a personal service contract shall be given ***as follows:***

(a) Adequate notice of personal service contracts in aggregate amounts over ten thousand dollars ($10,000) shall be given by the contracting body through a request for proposals***; and***~~[.]~~

(b) ***A***~~[The]~~ request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or his designee may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or his designee, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The committee shall maintain a record or have readily accessible records of the date on which each personal service contract and memorandum of agreement was received and shall maintain or have access to electronic or paper files on all personal service contracts and memoranda of agreement. Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.

(7) Payment on personal service contracts and memoranda of agreement submitted to the committee for approval shall not be made ***before completion of the review process and shall not be made*** for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet ***and***~~[or]~~ agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized ***until completion of the review process by the committee and shall not be authorized*** for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet ***and***~~[or]~~ agency head, if the agency has been granted delegation authority.

(8) In the event of a governmental emergency as defined under KRS 45A.690, work may begin prior to filing notification of the personal service contract with the committee, if the secretary of the Finance and Administration Cabinet ***and the agency head, if the agency has been granted delegation authority,***~~[or his designee]~~ determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and the normal process will not accommodate the governmental emergency. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.

(9) If a governmental emergency exists as defined under KRS 45A.690 and work is authorized to begin on a personal service contact immediately, a ***detailed***~~[copy of a]~~ statement, ***setting forth the nature of the emergency,*** approved by the secretary of the Finance and Administration Cabinet ***and the agency head, if the agency has been granted delegation authority,***~~[or his designee, setting forth in detail the nature of the emergency]~~ shall be filed with the committee~~[, along with a copy of the personal service contract]~~.

Section 7. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of seven (7) members that shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the committee from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairperson. Any vacancy that may occur in the membership of the committee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The committee shall meet monthly at the time and place as the chairperson may determine. A quorum shall require at least four (4) members present and the vote shall be by majority. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All proposed personal service contracts and memoranda of agreement received by the Legislative Research Commission shall be submitted to the committee to:

(a) Examine the stated need for the service;

(b) Examine whether the service could or should be performed by state personnel;

(c) Examine the amount and duration of the contract or agreement; and

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the committee determines that the contract service or agreement, other than an emergency contract approved by the secretary of the Finance and Administration Cabinet or his designee, is not needed or inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of the reasons for its disapproval or objection to the personal service contract or memorandum of agreement and shall return the personal service contract or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his designee. The committee shall act on a personal service contract or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received.

(6) Upon receipt of the committee's disapproval or objection to a personal service contract or memorandum of agreement, the secretary of the Finance and Administration Cabinet or his designee shall determine whether the personal service contract or memorandum of agreement shall:

(a) Be revised to comply with the objections of the committee;

(b) Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or

(c) Remain effective as originally approved.

(7) The secretary of the Finance and Administration Cabinet or his designee shall notify the committee of the action taken on personal service contracts and memoranda of agreement disapproved or objected to within ten (10) days from the date the personal service contracts or memoranda of agreement were reviewed by the committee.

~~[(8) Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his designee.]~~

SB 194, AN ACT relating to deputy sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.260 is amended to read as follows:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of KRS 70.260 to 70.273, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive or the chief executive officer of an urban-county government with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or the chief executive officer of an urban-county government responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

(9) An ordinance, adopted under subsection (1) of this section by a county~~[containing a city of the first class]~~, may exclude deputy sheriffs who serve in policy-making or confidential positions from coverage by the merit system. If the ordinance makes this exclusion, a deputy sheriff who is covered by the merit system and who accepts an appointment in a policy-making or confidential position shall be deemed to have received a leave of absence from the merit system during the incumbency of that position. If he ceases to serve in a policy-making or confidential position but continues to serve as a deputy, he shall be restored to coverage at the same classification and rank that he held prior to his policy-making position under the merit system. A deputy who is not covered by the merit system at the time he is appointed to a policy-making or

confidential position shall be deemed not to be part of the merit system and shall not be included in the merit system when he ceases to serve in that position.

Section 2. KRS 70.267 is amended to read as follows:

(1) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service ***following an initial appointment or a promotional appointment***. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

The Committee on Banking and Insurance reported **HB 788, HB 790,** with Committee Amendment attached thereto, **HB 201,** with Committee Substitute attached thereto, **SB 169, SB 170,** with House Committee Substitute attached thereto, and **SB 232** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 788, AN ACT relating to check authorization companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

(1) "Check authorization company" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling and maintaining a check authorization database and that provides a process that allows a consumer's information to be entered into a credit card terminal or cash register device at the point of sale at a retail seller's place of business located in Kentucky for the purpose of authorizing checks through its database for retail sellers;

(2) "Consumer" means an individual who offers a check as payment for goods or services at a retail seller's place of business located in Kentucky;

(3) "Retail seller" has the meaning provided in KRS 371.210.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A retail seller shall post in its place of business in a conspicuous location and in a clear and conspicuous manner the check acceptance policy of the retail seller and the returned check fee charged by the retail seller.

(2) If the retail seller uses the services of a check authorization company, the retail seller shall so state in its check acceptance policy and list the name and address of the check authorization company and shall make available to a consumer the written policy of the check authorization company.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A check authorization company shall, upon request by a consumer, clearly and accurately disclose to the consumer:

- ***(a) All information in the consumer's file at the time of the request;***
- ***(b) A list of the risk assessment factors used by the check authorization company;***
- ***(c) A summary of all of the rights that the consumer has under Sections 1 to 5 of this Act; and***
- ***(d) A toll-free telephone number established by the check authorization company at which personnel are accessible to consumers during normal business hours.***

(2) (a) A check authorization company shall require, as a condition of making the disclosures required under subsection (1) of this section, that the consumer furnish proper identification. Except as provided in paragraph (b) of this subsection, the disclosures shall be made in writing.

- ***(b) If authorized by a consumer, the check authorization company may make the disclosures other than in writing or in such form as provided by this paragraph if available from the company:***
  - ***1. In person, upon the appearance of the consumer at the place of business of the check authorization***

company where disclosures are regularly provided, during normal business hours, and on reasonable notice;

2. By telephone, if the consumer has made a written request for disclosure by telephone;

3. By electronic means, if available from the check authorization company; or

4. By any other reasonable means that are available from the check authorization company.

(c) A check authorization company shall provide personnel to explain to the consumer any information furnished to the consumer required by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If the completeness or accuracy of any item of information contained in a consumer's file at a check authorization company is disputed by the consumer and the consumer notifies the company directly of the dispute, the company shall investigate free of charge and record the current status of the disputed information and modify or delete the item from the file, as required by subsection (2) of this section, before the end of the thirty (30) day period beginning on the date on which the company receives the notice of the dispute from the consumer.

(2) If after investigation an item of information is found to be inaccurate or incomplete or cannot be verified, the check authorization company shall promptly delete or modify that item of information.

(3) A check authorization company shall provide written notice to a consumer of the results of the investigation not later than five (5) business days after completion of the investigation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any retail seller or check authorization company that fails to comply with Sections 1 to 5 of this Act shall be liable to a consumer as provided in this section and an action to enforce any liability created under Sections 1 to 5 of this Act may be brought in any court of competent jurisdiction.

(2) If the court finds that a retail seller or check authorization company has failed to comply with any provision in Sections 1 to 5 of this Act, a consumer shall recover the following:

(a) In the case of a negligent violation, actual damages, plus the costs of the action, loss of wages, and reasonable attorneys' fees;

(b) In the case of willful violation, damages, costs, and fees set forth in paragraph (a) of this subsection, punitive damages of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each violation as the court deems proper, and any other relief that the court deems proper; and

(c) Injunctive relief whether or not the consumer seeks any other remedy under this subsection, plus the costs of the action, loss of wages, and reasonable attorneys' fees.

HB 790, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-210 is amended to read as follows:

(1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty (30) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one (31) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen (15) days after the period of accumulation. Notwithstanding any provision of this chapter to the contrary, benefits are not overdue if a reparation obligor has not made payment to a provider of services due to the request of a secured person when the secured person is directing the payment of benefits among the different elements of loss. If reasonable proof is supplied as to only part of a claim, and the part totals one hundred dollars ($100) or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant, if the claimant so designates.

(2) Overdue payments bear interest at the rate of twelve percent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen percent (18%) per annum.

(3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.

(4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical

expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured under this subsection against any basic or added reparation benefits otherwise due.

(5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

(6) A provider of services for medical expenses shall submit a statement of medical expenses incurred to a reparation obligor within forty-five (45) days of the date treatment is initiated and every forty-five (45) days thereafter for as long as medical services are rendered. If the provider of medical services fails to submit a statement for medical services rendered to a reparation obligor as required under this subsection, the medical expenses shall not be compensable. Medical providers shall not bill a patient for services that have been denied by a reparation obligor for failure to submit bills following treatment within forty-five (45) days as required by this subsection.

Section 2. KRS 304.39-070 is amended to read as follows:

(1) "Secured person" means the owner, operator or occupant of a secured motor vehicle, and any other person or organization legally responsible for the acts or omissions of such owner, operator or occupant.

(2) A reparation obligor which has paid or may become obligated to pay basic reparation benefits shall be subrogated to the extent of its obligations to all of the rights of the person suffering the injury against any person or organization other than a secured person.

(3) A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection, except as provided in KRS 304.39-140(3). The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to KRS 304.39-030, sixty (60) days after said claim has been presented to the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association as provided in KRS 304.39-290. ***A standard set-off or deduction shall not be applied to any reimbursement under (ii) among reparation obligors for losses paid as basic or added reparations benefits. The only deduction allowed for subrogation claims under this section shall be the deduction allowed under subsection (6) of this section.***

(4) Any entitlement to recovery for basic or added reparation benefits paid or to be paid by the subrogee shall in no event exceed the limits of automobile bodily injury liability coverage available to the secured party after priority of entitlement as provided in this section and KRS 304.39-140(3) has been satisfied.

(5) An attorney representing a secured person in any action filed under KRS 304.39-060 shall be entitled to a reasonable attorneys' fee in the event that reparation benefits paid to said secured person by that secured person's reparation's obligor are reimbursed by any insurance carrier on behalf of a tortfeasor who is the defendant in any such action filed by the said secured person or in the event such potential "action" is settled by said potential tortfeasor's insurance carrier on his behalf prior to the filing of any such suit.

(6) As to subrogation actions between insurers under this section, whether by intervention in an action or reimbursement through arbitration, the only deduction allowed on a subrogation claim of a reparation obligor for losses paid as basic or added reparations benefits shall be for allocation of fault.

The Committee Amendment No. 1 to **HB 790** is as follows:

On page 2, lines 17 and 18, by deleting "***forty-five (45)***" and inserting in lieu thereof "***sixty (60)***"; and

On page 2, line 23, by deleting "***forty-five***" and inserting "***sixty***"; and

On page 2, line 24, by deleting "***(45)***" and inserting "***(60)***"; and

On page 2, line 25 through page 4 line 7, by deleting those lines in their entirety.

HB 201, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or

employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

(c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one

(1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
- (a) Coverage only for accident, or disability income insurance, or any combination thereof;
- (b) Coverage issued as a supplement to liability insurance;
- (c) Liability insurance, including general liability insurance and automobile liability insurance;
- (d) Workers' compensation or similar insurance;
- (e) Automobile medical payment insurance;
- (f) Credit-only insurance;
- (g) Coverage for on-site medical clinics;
- (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
- (i) Limited scope dental or vision benefits;
- (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
- (k) Such other similar, limited benefits as are specified in administrative regulations;
- (l) Coverage only for a specified disease or illness;
- (m) Hospital indemnity or other fixed indemnity insurance;
- (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
- (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
- (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who:
- (a) Is[~~ not~~] an eligible individual; ***or***
- (b) Is not eligible for or covered by other health benefit plan coverage; ***and***
  - ***1.***[~~(c)~~] [~~Within the previous three (3) years~~]Has been diagnosed with or treated for a high-cost condition or has ***been denied coverage under a health benefit plan by at least one (1) insurer in the individual market***[~~had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3)~~]; ***and***
  - ***2.***[~~(d)~~] Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy;[~~ and~~]
- ~~(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:~~
  - ~~1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;~~
  - ~~2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or~~
  - ~~3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;~~]

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured

plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280***;***[~~,~~]

(b)[~~but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.~~

~~(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:~~

~~1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and~~

~~2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.~~

~~(c)~~] The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan***. The individual market shall include health benefit plans issued to an association that does not offer coverage to large or small employers***;

(22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 2. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers,[~~ shall submit a copy of the filing to the Attorney General,~~] and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase.[~~ Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.~~]

(b)[~~ The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.~~

~~(c)~~] The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(c)[~~(d)~~]The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(d)[~~(e)~~]In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the

commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged ***as defined in subparagraph 1. of this paragraph:***

1. Benefits shall be deemed reasonable in relation to the premium charged if premium rates are neither excessive nor inadequate. Premium rates are not excessive if the insurer demonstrates, in accordance with generally accepted standards of actuarial practice, satisfaction of the following minimum anticipated loss ratios. "Loss ratio" means claims incurred, plus local and state premium taxes, plus preferred provider organization expenses, plus guaranteed acceptance plan assessments, divided by premiums received;

a. Loss Ratio Table: Individual Health Benefit Plans for the Renewal Clause Indicated

Renewal Clause	***Loss Ratio***
Noncancelable	***Sixty percent (60%)***
Nonrenewable	***Sixty-five percent (65%)***
Guaranteed renewable	***Seventy percent (70%)***
All others	***Seventy-five percent (75%)***

b. Loss Ratio Table: Group Health Benefit Plans

Group Size	***Loss Ratio***
Less than fifty-one (51) certificates	***Seventy percent (70%)***
Fifty-one (51) to five hundred (500) certificates	***Seventy-five percent (75%)***
All others	***Eighty percent (80%)***

c. Group Health Benefit Plans With an Average Annual Premium Per Certificate of Less than One Thousand Dollars ($1,000)

Group Size	***Loss Ratio***
Less than fifty-one (51) certificates	***Sixty-two and one-half percent (62.5%)***
Fifty-one (51) to five hundred (500) certificates	***Sixty-seven and one-half percent (67.5%)***
All others	***Seventy-two and one-half percent (72.5%)***

d. Group conversion insurance, other than long-term care insurance and Medicare supplement insurance, issued on either a group or an individual basis, shall have a loss ratio of not less than one hundred twenty percent (120%);

2. Premium rates are not inadequate if the insurer demonstrates, in accordance with generally accepted standards of actuarial practice, that the sum of premium income and investment income, minus the sum of benefit payments, expenses, taxes, and contingency margins is greater than zero (0);

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies; ***and***

(d)[~~The effect of the rate or rate increase on policyholders, enrollees, and subscribers;~~

~~(e)~~] Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory[~~; and~~

~~(f) The effect on the rates of any assessment made under KRS 304.17A-460; and~~

~~(g) Other factors as deemed relevant by the commissioner~~].

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) ***Notwithstanding other provisions of this section, premium rates shall be deemed approved upon filing with the department if the filing is accompanied by a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.***

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. Detailed experience information concerning the policy form;

3. A step-by-step description of the process used to develop the experience loss ratio;

4. A guarantee of a specific minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

5. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 4. of this paragraph, adjusted for duration;

6. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 4. of this paragraph; and

7. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue.

(c) The insurer shall refund premiums in the amount necessary to bring the actual aggregate loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of December of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the insurance regulatory trust fund.

(f) None of the provisions of subsections (1) to (5) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved~~[Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated]~~.

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. ***When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims loss ratio plus state and local premium taxes plus preferred provider organization expenses by the premiums received.***

Section 3. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed ***in the***~~[to an]~~ individual,~~[a]~~ small group, or~~[an]~~ association ***markets*** on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from

the index rate by more than ***forty percent (40%)***[~~thirty-five percent (35%)~~] of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***fifteen percent (15%)***[~~ten percent (10%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.

(4) The premium rates charged ***in the small group market during a rating period to a small group***[~~during a rating period to a small group or to an association member~~] with similar case characteristics for the same coverage, or the rates that could be charged ***in the small group market to a small group***[~~to that small group or that association member~~] under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group ***in the small group market***[~~or to an association member~~] for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group ***in the small group market***[~~or association member~~] as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For ***the*** purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual ***employee of a small group or his or her***[~~group member or the member's~~] dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or
2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 4. KRS 304.17A-210 is amended to read as follows:

Each ***guaranteed acceptance program participating*** insurer[~~ that issues health benefit plans in the individual market~~] shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual[~~ and the insurer is a guaranteed acceptance program participating insurer~~], then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's two (2) health benefit plans, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plans sold so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plans made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plans so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under KRS 304.17A-420(3)(a) to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5)[~~ (a) No insurer, who was not offering health benefit plans in Kentucky on January 1, 1998, shall be required to accept annually under this section individuals who, in the aggregate, would cause the insurer to have a total number of new insureds with high-cost conditions as defined in KRS 304.17A-005(19) or which exceed an insurer's underwriting guidelines as approved by the commissioner under KRS 304.17A-430(3)(b) per year that is more than one-half of one per cent (0.5%) of the total number of individuals insured by the insurer under individual health benefits plans issued or issued for delivery in the Commonwealth, calculated as of the immediately preceding thirty-first day of December.~~

~~(b) The commissioner shall, by administrative regulation, establish equitable enrollment limits for the first twelve (12) months, and any remaining portion of the calendar year after the expiration of that twelve (12) month period, in which an insurer first begins doing business in the individual market. These limits shall be based on the insurer's quarterly enrollment in health benefit plans offered in the individual market in the Commonwealth.~~

~~(c) An officer of the insurer shall certify to the department when it has met the enrollment limit established in this subsection. Upon providing this certification, the insurer shall be relieved of its guaranteed issue requirement under this section for the remainder of the calendar year.~~

~~(d) If all insurers that are required to offer coverage on a guaranteed-issue basis meet the enrollment limit established in this subsection prior to the end of the calendar year, then all such insurers shall again accept individuals for guaranteed issue coverage, subject to the enrollment limit established in this subsection.~~

~~(e) If certification of the enrollment limit would leave any county in the Commonwealth without an insurer to provide coverage in the individual market, the commissioner may require any insurer that meets the criteria in KRS 304.17A-420(1) to continue to offer coverage in that county. The commissioner shall proportionally increase the enrollment limit~~

~~under this subsection for all other insurers that do not meet the criteria of KRS 304.17A-420(1).~~

~~(6) An insurer that elects to use the alternative underwriting mechanism under KRS 304.17A-430(3) shall offer to those insureds who are subject to the alternative underwriting mechanism the standard plan and the two (2) plans offered by the insurer with the largest premium volume for the last calendar year.~~

~~(7)~~] For the purposes of this section and KRS 304.17A-250, insurers whose activities in the individual market are limited to the renewal of health benefit plans issued prior to July 15, 1995, shall not be deemed to be doing business in the individual market.

(6)[~~(8)~~]Subsections (1) to *(5)*[~~(7)~~] of this section shall not apply to a health benefit plan offered by an insurer if the coverage is made available in the individual market only through one (1) or more bona fide associations.

Section 5. KRS 304.17A-230 is amended to read as follows:

(1) ***An individual health benefit plan shall not define a preexisting condition more restrictively than any of the following:***

(a) A condition that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of coverage;

(b) A condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of coverage; or

(c) A pregnancy existing on the effective date of coverage.

(2) Preexisting conditions provisions shall not exclude or limit coverage for a period beyond twelve (12) months.[~~A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.~~

~~(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of KRS 304.17A-220, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.~~]

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

Section 6. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200 and 304.17A-210. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12)[~~Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage.~~] Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days ***after the completion of underwriting***[~~of the request for coverage~~]. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 7. KRS 304.17A-280 is amended to read as follows:

The commissioner may, by administrative regulation, add to the list of high-cost conditions provided in KRS 304.17A-005 other high-cost conditions~~[based on diagnosis and severity]~~. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

Section 8. KRS 304.17A-410 is amended to read as follows:

As used in KRS 304.17A-400 to 304.17A-480, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "Guaranteed acceptance program plan claims"~~[or "alternative underwriting mechanism losses"]~~ means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(4) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(5) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in KRS 304.17A-460;

(6) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(7) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(8) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers~~.~~ ***"Market share" shall not include guaranteed acceptance plan premiums***;

(9) "Other coverage" means coverage under any of the following:

(a) A group plan;

(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c et seq.;

(c) A state plan under Title XIX of the Social Security Act, or any successor program;

(d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

(e) Any other health insurance coverage which is not individual health insurance coverage;

(10) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(11) "Program" means the Kentucky Guaranteed Acceptance Program;

(12) "Refund" means an amount to be paid to an insurer by the program;

(13) "Stop-loss carrier" means any person providing health insurance stop-loss coverage;

(14) "Stop-loss premiums" means amounts paid to purchase health insurance stop-loss coverage; and

(15) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of ***guaranteed acceptance plan participating***~~[all]~~ insurers~~[participating in the program]~~.

Section 9. KRS 304.17A-420 is amended to read as follows:

(1)~~[Each insurer issuing health benefit plans in Kentucky and that had a market share of twenty-five percent (25%) or more for any calendar year shall be a program participating insurer for the following calendar year.~~

~~(2)~~] On or before July 1, 1998, each insurer issuing health benefit plans in Kentucky[~~, other than the insurers required by subsection (1) of this section to be a program participating insurer,~~] shall advise the commissioner in writing whether it will participate in the program as a program participating insurer or a program supporting insurer. After July 1, 1998, no insurer shall issue health benefit plans in Kentucky without first advising the commissioner in writing that it will participate in the program as a program participating insurer or a program supporting insurer. Any insurer issuing health benefit plans in Kentucky that fails to advise the commissioner of the nature of its participation in the program shall be deemed a program supporting insurer[~~ unless it is required by subsection (1) of this section to be a program participating insurer~~].

(2)[~~(3)~~]An insurer who elects to be a program participating insurer may elect to participate under the following conditions:

(a) Network-based insurers may limit coverage to the benefit plans offered to persons residing in the geographic area covered by the providers network; and

(b) A group insurer may elect to be a program participating insurer without otherwise operating in the individual market.

(3)[~~(4)~~]The department shall publicize a monthly list of program participating insurers.

(4)[~~(5)~~](a) The provisions of KRS 304.17A-400 to 304.17A-480 shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, or CHAMPUS insureds.

(b) Self-insured health benefit plans covering employees of institutions of higher education and self-insured plans covering elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts shall not be subject to the provisions of KRS 304.17A-400 to 304.17A-480.

Section 10. KRS 304.17A-430 is amended to read as follows:

[~~(1)~~]A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(1)[~~(a)~~]The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(2)[~~(b)~~]An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

(3)[~~(c)~~]The health benefit plan imposes the maximum pre-existing condition exclusion permitted under KRS 304.17A-200;

(4)[~~(d)~~]The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(5)[~~(e)~~]The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

[~~(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:~~

~~(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and~~

~~(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.~~

~~(3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high risk individuals rather than using the criteria established in KRS 304.17A-005(19) and 304.17A-280 for high cost conditions;~~

~~(b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the commissioner. Before the insurer may implement the mechanism, the insurer shall obtain approval of the commissioner. Annually thereafter, the insurer shall obtain the commissioner's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.~~]

Section 11. KRS 304.17A-470 is amended to read as follows:

(1) The department shall establish a risk adjustment process to be used in collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of allocating program plan losses among such insurers.

(2) As part of the risk adjustment process, the department shall establish and maintain a program account. All funds in the program account shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS) and its successors.

(3) The program account shall be funded from the following sources:

(a) Appropriations from the General Assembly;

(b) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(c) Annual assessments from each stop-loss carrier in an amount which is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

(d) An assessment for each calendar year, or the last six (6) month period of 1998, on the total amount of all health benefit plan premiums written during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the assessment is based. The first assessment shall be for the period from July 1, 1998, to December 31, 1998, shall be based on the amount of health benefit plan premiums written during this six (6) month period, and the total amount of the assessment against all insurers for this six (6) month period shall equal three million nine hundred thousand dollars ($3,900,000). The percentage rate used to determine this six (6) month period assessment shall be the maximum percentage that may be used to determine the assessment in any subsequent calendar year. Assessments in any subsequent year shall be paid on or before the last day of that calendar year, and the first assessment shall be paid on or before December 31, 1998;

(e) Any special assessments under subsection 4(b) of this section;

(f) Gifts, grants, or other voluntary contributions; and

(g) Interest or other earnings on the investment of the monies held in the account.

(4) After the end of each calendar year, the department shall calculate the amount of the total actual program plan losses incurred by all insurers for the calendar year. The first calculation shall be for the calendar year ended December 31, 1998.

(a) If the amount of total actual program plan losses is less than the amount in the program account, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account.

(b) If the amount of total actual program plan losses is more than the amount in the program account, then the difference shall be considered a program account deficit, and there shall be a second assessment, in addition to the assessment under subsection 3(d) of this section, on all insurers who received any of the health benefit plan premiums on which the assessment under subsection 3(d) is based. The second assessment shall also be a percentage of the health benefit plan premiums except for the following limitations:

1. The percentage rate may not exceed the percentage rate used to determine the 1998-1999 assessment; and

2. The total amount generated from the additional assessment may not exceed the lesser of the program account deficit or seven million eight hundred thousand dollars ($7,800,000). If the second assessment fully eliminates the program account deficit, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account. If the second assessment does not fully eliminate the program account deficit, each insurer shall be reimbursed up to its proportional share of program plan losses from the program account in the same proportion that the insurer's program plan losses bears to the total program plan losses of all insurers.

(c) In no event shall the sum of the first assessment provided for in subsection (3)(d) of this section and the second assessment provided for in paragraph (b) of this subsection be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums written during the prior assessment period.

(5) With respect to an insurer who reasonably will be expected to both pay assessments and receive payments from the program account, the department shall calculate the net amount owed to or to be received from the program account, and the department shall only collect assessments or make payments from the program account based upon net amounts.

(6) Insurers paying an assessment may include in any health insurance rate filing that amount of such assessments as provided in KRS 304.17A-460.

(7) Any surpluses remaining in the program account after completion of the risk adjustment process for a calendar year shall be maintained for use in the risk adjustment process for future calendar years and such funds shall not lapse. The General Fund appropriations to the program account shall not lapse.

(8) Assessments on health benefit plan premiums that are required under this section shall not be applied to premiums received by an insurer for Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

~~[(9) Program plan losses attributable to plans issued to individuals who do not have a high-cost condition shall be reimbursed only after reimbursement is made for losses attributable to plans issued to individuals with a high-cost condition.]~~

Section 12. KRS 304.17A-510 is amended to read as follows:

(1) In addition to the disclosure requirements provided in KRS 304.17A-505, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer ***that offers a managed care plan*** shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

Section 13. KRS 304.17A-525 is amended to read as follows:

(1) Insurers ***that offer managed care plans*** shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer ***that offers managed care plans*** shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

Section 14. KRS 304.17A-535 is amended to read as follows:

(1) A managed care plan ***that utilizes a drug formulary*** shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute," and no substitution shall be made without the provider's approval.

Section 15. KRS 304.17A-550 is amended to read as follows:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer ***that offers a managed care plan*** shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of April 10, 1998.

The Committee Substitute No. 1 to **HB 201** is as follows:

HB 201, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers,~~[shall submit a copy of the filing to the Attorney General,]~~ and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase.~~[Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.]~~

(b)~~[The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney~~

~~General, provided the request is in accordance with subsection (3) of this section.~~

~~(c)~~] The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(c)[~~(d)~~]The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(d)[~~(e)~~]In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17A-460; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) *Notwithstanding other provisions of this section, premium rates shall be deemed approved upon filing with the department if the filing is accompanied by a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.*

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy form;

4. A step-by-step description of the process used to develop the experience loss ratio;

5. A guarantee of a specific minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based

partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue.

(c) The insurer shall refund premiums in the amount necessary to bring the actual aggregate loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of December of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the insurance regulatory trust fund or to any fund established to fund the cost of providing insurance or health care coverage to high cost individuals in the individual market.

(f) None of the provisions of subsections (1) to (5) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved[~~Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated~~].

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. ***When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments.***

Section 2. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed ***in the***[~~to an~~] individual,[~~ a~~] small group, or[~~ an~~] association ***markets*** on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than ***forty percent (40%)***[~~thirty-five percent (35%)~~] of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***fifteen percent (15%)***[~~ten percent (10%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and

thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For ***the*** purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 3. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200 and 304.17A-210. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for

persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days ***after the completion of underwriting***~~[of the request for coverage]~~. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 4. KRS 304.17A-510 is amended to read as follows:

(1) In addition to the disclosure requirements provided in KRS 304.17A-505, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer ***that offers a managed care plan*** shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

Section 5. KRS 304.17A-525 is amended to read as follows:

(1) Insurers ***that offer managed care plans*** shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer ***that offers managed care plans*** shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

Section 6. KRS 304.17A-535 is amended to read as follows:

(1) A managed care plan ***that utilizes a drug formulary*** shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute," and no substitution shall be made without the provider's approval.

Section 7. KRS 304.17A-550 is amended to read as follows:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer ***that offers a managed care plan*** shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of April 10, 1998.

SB 169, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, a CAMEL rating means a system of rating used by examiners of financial institutions to rate the institutions in five (5) categories: capital adequacy, asset quality, management effectiveness, quantity and quality of earnings, and liquidity.

(2) In addition to all other banking activities permitted by this chapter, a state bank receiving a CAMEL rating of 1 or 2 at its most recent state or federal bank regulatory examination may engage in any banking activity in which the bank could engage if:

(a) It was operating as a national bank in any state;

(b) It was operating as a state bank, state thrift, or state savings bank in any state; or

(c) It meets the qualified thrift lender test as determined by the Office of Thrift Supervision or its successor, or was operating as a federally chartered thrift or federal savings bank in any state.

(3) Before a state bank may engage in any of the banking activities permitted by subsection (1) of this section, the state bank shall obtain a legal opinion specifying the statutory or regulatory provisions that permit the activity in which the state bank intends to engage. This legal opinion shall be maintained by the bank and provided to the department upon request.

Section 2. KRS 287.011 is amended to read as follows:

(1) There is created a Department of Financial Institutions, which constitutes a department of the state government within the meaning of KRS Chapter 12. The department shall be headed by a commissioner of financial institutions, who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The Department of Financial Institutions shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering and licensing of banks, trust companies, savings and loan associations, consumer loan companies, investment and industrial loan companies, and credit unions, and in relation to the regulation of securities.

(3) There is established within the Department of Financial Institutions the following divisions and offices:

(a) The Division of Financial Institutions, which shall be headed by a director appointed by the commissioner, subject to prior written approval of the Governor in accordance with KRS 12.050. The division shall consist of entities deemed appropriate by the commissioner;

(b) The Division of Securities, which shall be headed by a director appointed by the commissioner in accordance with KRS 12.050. The division shall consist of entities deemed appropriate by the commissioner;

(c) The Division of Administrative Services, which shall be headed by a director appointed by the commissioner in accordance with KRS 12.050. The division shall be composed of organizational entities deemed appropriate by the commissioner;

(d) The Office of the Commissioner, which shall be composed of organizational entities deemed appropriate by the commissioner; and

(e) The Office of General Counsel, which shall be headed by a general counsel appointed by the commissioner in accordance with KRS 12.050. The office shall be composed of organizational entities as deemed appropriate by the commissioner.

(4) The department may accept any application or other document required to be filed with the department in electronic format or in any other technology acceptable to the department.

Section 3. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold~~[such]~~ personal property ***that***~~[as]~~ has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) The real estate is necessary or appropriate for the transaction of legitimate business~~[and the acquisition has been approved by the commissioner as required by KRS 287.103]~~; and

(b) The cost of the real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). The investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, or a series of ***the***[~~such~~] company, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

  (a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

  (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

  (c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county, or municipal governments legally authorized to issue ***these***[~~such~~] instruments of indebtedness;

  (d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

  (a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

  (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

  (c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county, or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the bank's generally accepted banking market. For purposes of this section, "the bank's generally accepted banking market" means the geographic banking market at the time the investment is made as defined by the Federal Reserve Bank in the Federal Reserve District in which the bank is located. The investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

  (b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. Any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend ***the***[~~such~~] disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank;

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank;[~~ and~~]

(13) Invest, with the prior approval of the commissioner, in the capital stock or bonds of a trust company***; and***

(14) Own or operate a courier service, either through the bank or a bona fide subsidiary of the bank, in any county where the bank has its principal office or a branch.

Investments ***in accordance with***[~~pursuant to~~] subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes, and other investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

Section 4. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsections (2) or (3) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest on these items, buying and selling exchange, coin, and bullion, and lending money on personal or real security.

(2) ***A bank may establish a branch in a county in which its principal office or an existing branch is located and may***

exercise all of the powers conferred in subsection (1) of this section at the branch. A bank, except for a bank that the commissioner may designate by the promulgation of administrative regulations, shall apply to the commissioner for permission to establish a branch.~~[Any corporation presently or after July 13, 1990, engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner for permission to establish, within any county in which its principal office or an existing branch is located, a branch at which all of the powers conferred in subsection (1) of this section may be exercised.]~~ Before the commissioner shall approve or disapprove any application made under this subsection ***the commissioner***~~[he]~~ shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing the branch. The following conditions shall apply to applications for branches:

(a) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for any period of time ***the commissioner***~~[he]~~ deems to be necessary; and

(b) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank may continue to retain and operate the agency or branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing agency or branch bank but only as to those agencies or branch banks which may be established in the future ***in accordance with***~~[pursuant to]~~ the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of the banks, nor to prohibit the sale of any bank to, and the purchase by, any other bank in the same county and the operation of the bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by the operation, and provided further that, at the time of the merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more. The bank which does not survive the merger shall surrender its charter.

(5) Any national banking association or any state bank member of the Federal Reserve system whose principal office is located in this state may do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of these powers.

(6) When a branch or agency bank has once been established any operation of the branch or agency bank shall not be discontinued, and the branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner the branch or agency bank proposing to discontinue operation may be required to give notice of the date when its operation will cease.

Section 5. KRS 287.185 is amended to read as follows:

A bank may move its principal office or a branch from one location to another. A bank, except for a bank that the commissioner may designate through the promulgation of administrative regulations, shall apply to the commissioner for approval to relocate its principal office or a branch~~[(1) No branch or principal office of any bank shall be moved from one location to another without the approval of the commissioner]~~. Before the commissioner shall approve or disapprove any change of location he shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is a reasonable probability of the successful operation of the branch or principal office at the new location.

~~[(2) If a bank wishes to move its principal office from one location to another in the same county and retain its former principal office as a branch, the provisions of subsection (1) of this section shall be followed in regard to approval of the change of location. A final order by the commissioner approving or disapproving the change of location shall be deemed to constitute a similar approval or disapproval of the former principal office as a branch, and no further administrative proceedings shall be necessary.]~~

Section 6. KRS 287.900 is amended to read as follows:

(1) For purposes of this section and KRS 287.905:

(a) "Bank" means any institution organized under this chapter, the banking laws of another state, or the National Bank Act, as amended, to do a banking business. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years;

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended (12 U.S.C. secs. 1841 et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation; and

(d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all federally-insured depository institutions to their respective supervisory authorities.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control ***of greater than fifty percent (50%) of the voting securities*** of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally-insured depository institutions in this state as reported in the most recent ***June 30 quarterly report***[~~year-end reports~~] made by the institutions to their respective supervisory authorities which are available at the time of the acquisition.

(4) The limitations set forth in this section or any other provision of this chapter or any ***administrative*** regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his ***or her*** discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

(5) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 7. KRS 287.920 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Interstate merger transaction" means the merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; and

(b) "Resulting bank" means a bank that has resulted from an interstate merger transaction under this section.

(2) A Kentucky state bank may establish, maintain, and operate one (1) or more branches in a state other than Kentucky ***in accordance with***[~~pursuant to~~] an interstate merger transaction in which the Kentucky state bank is the resulting bank, or if the other state permits, by acquisition of a branch or branches in the other state. Not later than the date on which the required application for the interstate merger transaction or branch acquisition is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner and pay the fee prescribed by KRS 287.480. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his ***or her*** approval or disapproval in the same manner as prescribed in KRS 287.180(2).

(3) An out-of-state state bank may establish, maintain, and operate one (1) or more branches in Kentucky ***in accordance with***[~~pursuant to~~] an interstate merger transaction in which the out-of-state state bank is the resulting bank. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner, pay the fee prescribed by KRS 287.480, and agree in writing to comply with the laws of this state applicable to its operation of branches in Kentucky. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his ***or her*** approval or disapproval in the same manner as prescribed in KRS 287.180(2).

(4) The bank to be acquired in an interstate merger transaction under the provisions of subsection (3) of this section shall have been involved in operation for a period of five (5) years or more. No interstate merger transaction under subsections (2) or (3) of this section shall be approved if the transaction would result in a bank holding company having control of banks or branches in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally-insured depository institutions in this state as reported in the most recent ***June 30 quarterly report***[~~year-end reports~~] made by the institutions to their respective supervisory authorities which are available at the time of the transaction.

(5) An individual or bank holding company that controls two (2) or more banks may, from time to time, combine any or all of

the commonly controlled banks in this Commonwealth into and with any one (1) of the banks, and thereafter the surviving bank shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank.

(6) A branch of an out-of-state state bank may conduct any activities that are authorized under the laws of this state for state banks. Additionally, the branch of an out-of-state state bank is authorized to conduct any activities relating to the administration of trusts that are authorized under the laws of its home state, if the activities are conducted in conformity with the laws of its home state.

(7) A branch of a Kentucky state bank located in a host state may conduct any activities that are:

- (a) Authorized under the laws of the host state for banks chartered by the host state; or
- (b) Authorized for branches of national banks located in the host state, but whose principal location is in a state other than the host state.

SB 170, AN ACT relating to mortgage loan companies and loan brokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

(1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;

(2) "Department" means the Department of Financial Institutions;

(3) "Commissioner" means the commissioner of financial institutions;

(4) "Mortgage loan" means any loan secured by a mortgage on residential real property or any loan secured by collateral which has a mortgage lien interest in residential real property;

(5) "Residential real property" means any single family residence or multiple dwelling structure containing four (4) or less single dwelling units for four (4) or less family units, living independently of each other, or any single family condominium unit***, excluding housing transferred by a certificate of title under KRS Chapter 186A***;

(6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;

(7) "Mortgage loan company" means any person who directly or indirectly:

- (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;
- (b) Holds himself out as being able to service loans secured by mortgages on residential real property; and
- (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;

(8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:

- (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or
- (b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property***; and***

(9) "Employee" means a person who, for federal income tax purposes, receives a W-2 form approved by the Internal Revenue Service from a licensee and works in the mortgage loan business exclusively for a licensee.

Section 2. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

- (a) Any person ***duly licensed, chartered or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency***~~[doing business]~~ under the laws of this state or any other state or the United States ***as a bank***~~[relating to banks]~~, bank holding ***company***~~[companies]~~, trust ***company***~~[companies]~~, credit ***union***~~[unions]~~, savings and loan ***association***~~[associations]~~, service corporation ***subsidiary***~~[subsidiaries]~~ of savings and loan associations, consumer ***loan or*** finance ***company***~~[companies]~~, industrial loan ***company***~~[companies]~~, insurance ***company***~~[companies]~~, or real estate investment ***trust***~~[trusts]~~ as defined in 26 U.S.C. sec. 856 and the affiliates of such companies, or an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended***, or affiliates or subsidiaries of any institution listed in this paragraph***;
- (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;

(c) Any person doing any act under order of any court;

(d) The United States of America, the Commonwealth of Kentucky, or any other state, and any Kentucky city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;

(e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA)[~~;~~

~~(f) With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:~~

~~1. The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and~~

~~2. The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor~~].

(2) The following shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the commissioner, on written complaint, that an examination or investigation is necessary, and they shall be subject to the prohibited acts provisions of KRS 294.220:

(a) Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development; ***and***

(b) ***Any person making less than five (5) mortgage loans or brokering less than five (5) mortgage loans per calendar year in Kentucky***[~~Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;~~

~~(c) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Department of Financial Institutions;~~

~~(d) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate; and~~

~~(e) Any person making less than five (5) mortgage loans per year~~].

(3) ***With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:***

(a) The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and

(b) The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor.

[~~Any person relying upon an exemption under subsection (2)(c) or (d) of this section shall file with the commissioner a claim of exemption. The commissioner shall thereafter determine the availability of the claimed exemption and he shall not disallow an exemption that is validly claimed.~~]

Section 3. KRS 294.100 is amended to read as follows:

(1) No ***licensed*** mortgage loan company or mortgage loan broker may establish or maintain a branch office in Kentucky without filing the registration statement as described in KRS 294.032(5) and the receipt of prior written approval of the commissioner.

(2) Each registration statement for approval of the establishment and maintenance of a branch office shall state the proposed location, the functions to be performed, and other information which the commissioner may require if different from that contained in the original application for a license.

(3) Each registration statement under this section shall be sworn to and accompanied by the appropriate fee as set out in KRS 294.034(1)(b).

(4) Upon the receipt by the commissioner of a registration statement and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this chapter, he shall approve the registration statement.

Section 4. KRS 294.220 is amended to read as follows:

(1) It shall be unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this chapter, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect.

(2) It shall be unlawful for any mortgage loan company or mortgage loan broker, in connection with the operation of a mortgage loan business or the management or servicing of mortgage contracts, directly or indirectly:

(a) To employ a device, scheme, or artifice to defraud;

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(c) To fail to disburse funds in accordance with a loan commitment;

(d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(e) Upon receipt of a customer's written request, to delay beyond two (2) business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history***; or***

(f) To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection.

(3) Unless exempted by KRS 294.020, it shall be unlawful for any person to transact any mortgage loan business in this state unless it:

(a) Qualifies to do business in Kentucky as required by KRS Chapter 271B; and

(b) Complies with the provisions of this chapter.

Section 5. KRS 294.990 is amended to read as follows:

(1) Any person who willfully violates any provision of this chapter, except KRS 294.220(1), or who willfully violates KRS 294.220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.

(2) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.

(3) The commissioner may refer the evidence available concerning violations of this chapter or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without reference, institute the appropriate criminal proceeding under this chapter.

(4) Nothing in this chapter shall limit the powers of the state to punish any person for any conduct which constitutes a crime.

(5) The commissioner may assess a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) against any mortgage loan company or mortgage loan broker that violates any provision of this chapter***, or order a refund of any fee collected in violation of any provision of this chapter***.~~[The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.]~~

(6) Any person who shall engage in the businesses regulated by this chapter without first securing a license therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

The House Committee Substitute No. 1 to **SB 170** is as follows:

SB 170, AN ACT relating to mortgage loan companies and loan brokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

(1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;

(2) "Department" means the Department of Financial Institutions;

(3) "Commissioner" means the commissioner of financial institutions;

(4) "Mortgage loan" means any loan secured by a mortgage on residential real property or any loan secured by collateral which has a mortgage lien interest in residential real property;

(5) "Residential real property" means any single family residence or multiple dwelling structure containing four (4) or less single dwelling units for four (4) or less family units, living independently of each other, or any single family condominium unit***, excluding housing transferred by a certificate of title under KRS Chapter 186A***;

(6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;

(7) "Mortgage loan company" means any person who directly or indirectly:

- (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;
- (b) Holds himself out as being able to service loans secured by mortgages on residential real property; and
- (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;

(8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:

- (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or
- (b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property***; and***

(9) "Employee" means a person who, for federal income tax purposes, receives a W-2 form approved by the Internal Revenue Service from a licensee and works in the mortgage loan business exclusively for a licensee.

Section 2. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

- (a) Any person ***duly licensed, chartered or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency***[~~doing business~~] under the laws of this state or any other state or the United States ***as a bank***[~~relating to banks~~], bank holding ***company***[~~companies~~], trust ***company***[~~companies~~], credit ***union***[~~unions~~], savings and loan ***association***[~~associations~~], service corporation ***subsidiary***[~~subsidiaries~~] of savings and loan associations, consumer ***loan or*** finance ***company***[~~companies~~], industrial loan ***company***[~~companies~~], insurance ***company***[~~companies~~], or real estate investment ***trust***[~~trusts~~] as defined in 26 U.S.C. sec. 856[~~ and the affiliates of such companies,~~] or an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended***, or affiliates or subsidiaries of any institution listed in this paragraph***;
- (b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;
- (c) Any person doing any act under order of any court;
- (d) The United States of America, the Commonwealth of Kentucky, or any other state, and any Kentucky city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;
- (e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA)[~~;~~
- ~~(f) With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:~~
    - ~~1. The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and~~
    - ~~2. The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor~~].

(2) ***Any person making less than five (5) mortgage loans or brokering less than five (5) mortgage loans per calendar year in Kentucky and any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan***[~~The following~~] shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the commissioner, on written complaint, that an examination or investigation is necessary, and they shall be subject to the prohibited acts provisions of KRS 294.220[~~:~~

- ~~(a) Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development;~~
- ~~(b) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;~~
- ~~(c) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Department of Financial Institutions;~~
- ~~(d) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate; and~~
- ~~(e) Any person making less than five (5) mortgage loans per year~~].

(3) ***With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company, licensed mortgage loan broker, or financial institution listed in paragraph (a) of subsection (1) of this section may be exempted from obtaining a license under this chapter if:***

(a) The licensed mortgage loan company, licensed mortgage loan broker, or financial institution notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and

(b) The licensed mortgage loan company, licensed mortgage loan broker, or financial institution provides the department with proof that its bond will cover the independent contractor.

(4) Any person relying upon an exemption under~~[subsection (2)(c) or (d) of]~~ this section shall file with the commissioner a claim of exemption. The commissioner shall thereafter determine the availability of the claimed exemption and he shall not disallow an exemption that is validly claimed.

Section 3. KRS 294.100 is amended to read as follows:

(1) No ***licensed*** mortgage loan company or mortgage loan broker may establish or maintain a branch office in Kentucky without filing the registration statement as described in KRS 294.032(5) and the receipt of prior written approval of the commissioner.

(2) Each registration statement for approval of the establishment and maintenance of a branch office shall state the proposed location, the functions to be performed, and other information which the commissioner may require if different from that contained in the original application for a license.

(3) Each registration statement under this section shall be sworn to and accompanied by the appropriate fee as set out in KRS 294.034(1)(b).

(4) Upon the receipt by the commissioner of a registration statement and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this chapter, he shall approve the registration statement.

Section 4. KRS 294.220 is amended to read as follows:

(1) It shall be unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under this chapter, any statement which is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect.

(2) It shall be unlawful for any mortgage loan company or mortgage loan broker, in connection with the operation of a mortgage loan business or the management or servicing of mortgage contracts, directly or indirectly:

(a) To employ a device, scheme, or artifice to defraud;

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(c) To fail to disburse funds in accordance with a loan commitment;

(d) To delay closing of any mortgage loan for the purpose of increasing interest, costs, fees, or charges payable by the borrower;

(e) Upon receipt of a customer's written request, to delay beyond two (2) business days the issuance of a written loan payoff amount or to delay beyond ten (10) business days the issuance of a payment history***; or***

(f) To charge a fee for the issuance of an initial written loan payoff amount or payment history for each calendar quarter as set out in paragraph (e) of this subsection.

(3) Unless exempted by KRS 294.020, ***and unless a claim of exemption has been filed as set forth in subsection (4) of Section 2 of this Act,*** it shall be unlawful for any person to transact any mortgage loan business in this state unless it:

(a) Qualifies to do business in Kentucky as required by KRS Chapter 271B; and

(b) Complies with the ***licensing*** provisions of this chapter.

Section 5. KRS 294.090 is amended to read as follows:

(1) The commissioner ***shall***~~[may]~~ deny, suspend, or revoke any license when the applicant or licensee:

(a)~~[(1)]~~Does not meet or has failed to comply with the requirements of this chapter;

(b)~~[(2)]~~Is unfit through lack of financial responsibility or experience to conduct the business of a mortgage loan company or mortgage loan broker, as the case may be;

(c)~~[(3)]~~Does not conduct his ***or her*** business in accordance with law or the method of business includes or would include activities which are illegal where performed, or has willfully violated any provision of this chapter or any ***administrative*** regulation hereunder;

(d)~~[(4)]~~Collects interest at a usurious rate;

(e)~~[(5)]~~Is in such financial condition that he ***or she*** cannot continue in business with safety to his ***or her*** customers;

(f)~~[(6)]~~Has been guilty of fraud in connection with any transaction governed by this chapter, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the registrant; but the commissioner may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he ***or she*** may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for an order under this section;

(g)[~~(7)~~]Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of acting as a mortgage loan company or mortgage loan broker, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate;

(h)[~~(8)~~] Has knowingly made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information which the applicant or licensee possesses, and which if submitted by him ***or her*** would have rendered the applicant or licensee ineligible to be licensed under this chapter;

(i)[~~(9)~~] Has failed to account to persons interest for all funds received for the escrow account required under KRS 294.130;

(j)[~~(10)~~] Has refused to permit an examination by the commissioner of his ***or her*** books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the commissioner under the provisions of this chapter;

(k)[~~(11)~~] Has been convicted of any misdemeanor of which an essential element is fraud, or any felony, or has pending against him ***or her*** any felony charge; or

(l)[~~(12)~~] Has had any license related to the financial services industry denied, suspended, or revoked under the laws of this state or any other state or the United States.

(2) If the commissioner has knowledge that any person relying upon an exemption under KRS 294.020 has failed to file the required claim of exemption, the commissioner shall:

(a) Issue a cease and desist order; and

(b) Order the offending person to notify the customers of the offending person that a cease and desist order has been issued to the offending person.

Section 6. KRS 294.120 is amended to read as follows:

(1) Every mortgage loan company may require borrowers to pay all necessary and reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorneys' fees, abstract, recording and registration fees, title examination, title insurance, mortgage insurance, credit report, survey, drawing of papers, origination fees, loan closing costs, and taxes or charges imposed upon or in connection with the making and reporting of any mortgage.

(2) Every mortgage loan company also may require the borrowers to pay the cost of all other necessary and incidental services rendered by the mortgage loan company or by others in connection with loans in reasonable amounts. Without limiting the generality of the foregoing, such costs may include the cost of services of inspectors, engineers, and architects.

(3) Such initial charges as described in subsections (1) and (2) of this section may be collected by the mortgage loan company from the borrower and paid to any person rendering such services, or paid directly by the borrower.

(4) In lieu of such initial charges to cover such expenses and costs as described in subsections (1) and (2) of this section, a mortgage loan company may make a reasonable charge, part or all of which may be retained by the mortgage loan company which renders such service, or part or all of which may be paid to others who render such services.

(5) The fees and charges authorized by this section shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this Commonwealth which limits the rate of interest which may be exacted in any transaction.

(6) No person shall receive any fee or other compensation of any kind in connection with procuring any loan, except for services actually rendered as above provided, and in no event shall a mortgage loan company or mortgage loan broker require the payment of a fee greater than one hundred dollars ($100) as a condition to submitting a loan application unless the commissioner shall otherwise prescribe by rule.

(7) All "letters of commitment," or any other contracts or agreements between prospective borrowers and a mortgage loan company or a loan broker, where the borrowers employ services, for a fee or commission, to obtain a loan commitment or funding from a lending institution shall indicate the terms and conditions thereof, including a full and detailed description of the services the broker or company undertakes to perform, a specific statement of the circumstances in which the broker or company will be entitled to obtain or retain consideration and the period that such agreement shall remain in effect.

(8) Failure on the part of any party, with the exception of the borrower, to fulfill the terms of any loan commitment, letter of commitment, agreement, or contract for the loan of money within the time and on such terms specified therein, or the failure to make a bona fide effort to secure a loan after receiving a fee for such service, shall constitute default by the mortgage loan company and any other person so in default; and any person damaged by such default may sue at law or

equity for damages, reasonable attorneys' fees and interest at the legal rate of interest under KRS 360.010. Every cause of action for damages under this subsection survives the death of any person who might have been a plaintiff or defendant. No person may sue under this subsection more than five (5) years after any act constituting default.

(9) Effecting transactions upon terms and conditions other than those stated in the letter of commitment, loan commitment or any other contract for the loan of money, or entering into an agreement which establishes unfair terms and conditions or compensation, or any contract of a loan in the making or collection of which constitutes a willful violation of any provision of this chapter, shall be void.

Section 7. KRS 294.990 is amended to read as follows:

(1) Any person who willfully violates any provision of this chapter, except KRS 294.220(1), or who willfully violates KRS 294.220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.

(2) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.

(3) The commissioner ***shall***~~[may]~~ refer the evidence available concerning violations of this chapter or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without reference, institute the appropriate criminal proceeding under this chapter.

(4) Nothing in this chapter shall limit the powers of the state to punish any person for any conduct which constitutes a crime.

(5) The commissioner may assess a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) against any mortgage loan company or mortgage loan broker that violates any provision of this chapter***, or order a refund of any fee collected in violation of any provision of this chapter***.~~[The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.]~~

(6) Any person who shall engage in the businesses regulated by this chapter without first securing a license therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

SB 232, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, to the extent authorized by the commissioner by administrative regulation, a licensed agent, producer, broker, or insurer has the power to engage in any insurance activity that financial institutions chartered by or otherwise subject to the jurisdiction of the federal government are authorized to engage in according to federal law or regulation or by a court of competent jurisdiction.

SECTION 2. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may enter into interstate compacts for issuing certificates of authority to insurers if the commissioner determines that :

(a) Each state participating in the compact has requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle; or

(b) The interstate compact contains requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle.

(2) In lieu of the documents required in KRS 304.3-150(1) to (14) to be filed with an application for certificate of authority, the commissioner may accept documentation in accordance with the terms of the interstate compact.

(3) The commissioner may issue certificates of authority to insurers in accordance with the terms of the interstate compact.

Calendar

HB 366, HB 992, HB 58, HB 420, HB 675, HB 984, SB 56, SB 58, SB 77, SB 81, SB 91, HB 736, HB 768, HB 818, HB 870, HB 914, HJR 128, HJR 131, HB 724, HB 745, HB 808, HB 866, HB 936, HB 857, HB 881, HB 912, HB 944, SB 152, SB 215, HB 642, HB 756, HB 957, HB 248, HB 727, HB 728, HB 900, HB 946, SB 94, SB 68, SB 114, SB 166, SB 202, SB 206, and **SB 233** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 69, SB 163, SB 259, SB 287, SB 298, SB 300, SJR 68, SJR 73, HB 433, HB 448, HB 497, HCR 53,** and **HJR 73**. (Time: 2:10 p.m.)

Message in regard to **HB 350**: The Senate has passed **HB 350** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Education Committee recess in Chamber

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 685, HB 794, HB 826, HB 843, HB 856, HB 896, HB 58, HB 420, HB 675, HB 724, HB 736, HB 745, HB 756, HB 768, HB 808, HB 870, HB 914, HB 936, HB 946, HB 957, HB 992, HJR 131, SB 56, SB 68, SB 91, SB 114, SB 166, SB 202, SB 206, SB 215,** and **SB 233** have been posted for passage in the Orders of the Day for March 10, 2000.

Orders of the Day

HB 722, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of Committee Amendment No. 1 to **HB 722**. Agreed.

Representative J. Turner moved the adoption of Committee Amendment No. 2 to **HB 722**. Agreed.

Representative J. Turner moved that **HB 722**, as amended, be passed.

Representative Allen moved the adoption of Floor Amendment No. 1 to **HB 722**.

On the roll call the vote was: **Yeas 18, Nays 62**. (See March 9, 2000 roll call on the adoption of Floor Amendment No. 1 to **HB 722**-Appendix)

Floor Amendment No. 1 to **HB 722** was defeated.

Representative J. Turner moved that **HB 722**, as amended, be passed.

On the roll call the vote was: **Yeas 69, Nays 27**. (See March 9, 2000 roll call on **HB 722** - Appendix.)

HB 722, as amended, was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 722**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 433, HB 497, HB 448, HJR 73,** and **HCR 53** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:10 p.m.)

Orders of the Day (Continued)

HB 742, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HB 742**. Agreed.

Representative Palumbo moved that **HB 742**, as amended, be passed.

On the roll call the vote was: **Yeas 84**, **Nays 0**. (See March 9, 2000 roll call on **HB 742** - Appendix.)

HB 742, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 742**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SB 190** be passed.

On the roll call the vote was: **Yeas 86**, **Nays 0**. (See March 9 , 2000 roll call on **SB 190** - Appendix.)

SB 190 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **SB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 740, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Floor Amendment No. 1 to **HB 740**. Agreed.

Representative Ballard moved that **HB 740**, as amended, be passed.

On the roll call the vote was: **Yeas 90**, **Nays 1**. (See March 9, 2000 roll call on **HB 740** - Appendix.)

HB 740, as amended, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 740**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 709, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of Committee Amendment No. 1 to **HB 709**. Agreed.

Representative C. Belcher moved the adoption of Floor Amendment No. 1 to **HB 709**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 2 to **HB 709**.

Representative Crall inquired if Floor Amendment No 2 was germane to **HB 709**.

The Speaker ruled that Floor Amendment No. 2 to **HB 709** was not germane.

Representative C. Belcher moved that **HB 709**, as amended, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 9, 2000 roll call on **HB 709** - Appendix.)

HB 709, as amended, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 709**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 749, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 749**. Agreed.

Representative Callahan moved that **HB 749**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 9, 2000 roll call on **HB 749** - Appendix.)

HB 749, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 749**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 811, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Floor Amendment No. 1 to **HB 811**. Agreed.

Representative Callahan moved that **HB 811**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 9, 2000 roll call on **HB 811** - Appendix.)

HB 811, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 811**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 110 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **SB 110** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 9 , 2000 roll call on **SB 110** - Appendix.)

SB 110 was passed and the title agreed to.

Representative Feeley moved that the vote by which **SB 110** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 733 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 733** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 9 , 2000 roll call on **HB 733** - Appendix.)

HB 733 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 733** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 433, HB 497, HB 448, HJR 73, and **HCR 53** delivered to the Senate and signed by the President. Delivered to the Governor on March 9, 2000, at 3:28 p.m.

Orders of the Day (Continued)

HB 676, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 676** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 9 , 2000 roll call on **HB 676** - Appendix.)

HB 676 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 676** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 122 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HJR 122** be adopted.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 9, 2000 roll call on **HJR 122** - Appendix.)

HJR 122 was adopted.

Representative Colter moved that the vote by which **HJR 122** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 787 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 787** be passed.

On the roll call the vote was: **Yeas 93**, **Nays 0**. (See March 9 , 2000 roll call on **HB 787** - Appendix.)

HB 787 was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 787** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 758 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 758** be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 9 , 2000 roll call on **HB 758** - Appendix.)

HB 758 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 758** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 884, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 884**. Agreed.

Representative Rasche moved that **HB 884**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93**, **Nays 0**. (See March 9, 2000 roll call on **HB 884** - Appendix.)

HB 884, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 884**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 996, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 996**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 996**. Agreed.

Representative Moberly moved that the rules be suspended to consider Floor Amendment No. 14 to the Committee Substitute to **HB 996**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 14 to the Committee Substitute to **HB 996**. Agreed.

Representative Moberly moved that **HB 996**, by way of Committee Substitute as amended, be passed.

The Speaker Pro Tem assumed the Chair.

Speaker Richards resumed the Chair.

Representative Anderson moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 996**.

Representative Moberly inquired if Floor Amendment No. 5 to the Committee Substitute was germane to **HB 996**.

The Speaker ruled that Floor Amendment No. 5 to the Committee Substitute to **HB 996** was not germane.

Representative Anderson moved that the rules be suspended to consider Floor Amendment No. 12 to the Committee Substitute to **HB 996**.

On the roll call the vote was: **Yeas 31, Nays 49**. (See March 9, 2000 roll call on the motion that the rules be suspended to consider Floor Amendment No. 12 to the Committee Substitute to **HB 996**-Appendix)

The motion that the rules be suspended to consider Floor Amendment No. 12 to the Committee Substitute to **HB 996** was defeated.

Representative Crall moved to appeal the ruling of the Chair on Floor Amendment No. 5 to the Committee Substitute to **HB 996**. The appeal was supported by Representative Cave.

The Speaker vacated the Chair; the Speaker Pro Tem assumed the Chair.

On the roll the vote was: **Yeas 23, Nays 67**. (See March 9, 2000 roll call on the motion to appeal the ruling of the Chair on Floor Amendment No. 5 to the Committee Substitute to **HB 996**-Appendix)

The ruling of the Chair on Floor Amendment No. 5 to the Committee Substitute to **HB 996** was upheld.

Representative Anderson moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 996**.

On the roll call the vote was: **Yeas 24, Nays 59**. (See March 9, 2000 roll call on the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 996**-Appendix)

Floor Amendment No. 4 to the Committee Substitute to **HB 996** was defeated.

Representative Moberly moved that **HB 996**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 57, Nays 39**. (See March 9, 2000 roll call on **HB 996** - Appendix.)

HB 996, by way of Committee Substitute as amended, was passed.

Representative Moberly moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 996**. Agreed; and the title was agreed to.

Representative Stumbo moved that the vote by which **HB 996**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 488, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of the Committee Substitute to **HB 488**. Agreed.

Representative Lee moved that **HB 488**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 9, 2000 roll call on **HB 488** - Appendix.)

HB 488, by way of Committee Substitute, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 488**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 113 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HJR 113** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 9, 2000 roll call on **HJR 113** - Appendix.)

HJR 113 was adopted.

Representative Nunn moved that the vote by which **HJR 113** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 119 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HCR 119** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 9, 2000 roll call on **HCR 119** - Appendix.)

HCR 119 was adopted.

Representative Westrom moved that the vote by which **HCR 119** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 757, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Committee Amendment No. 1 to **HB 757**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 757**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 3 to **HB 757**. Defeated.

Representative Damron moved the adoption of Floor Amendment No. 2 to **HB 757**. Agreed.

Representative Damron moved that **HB 757**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See March 9, 2000 roll call on **HB 757** - Appendix.)

HB 757, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 757**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 636 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 636** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 9 , 2000 roll call on **HB 636** - Appendix.)

HB 636 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 636** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 296**. Agreed.

Representative Westrom moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 296**. Agreed.

Representative Westrom moved that **HB 296**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 64, Nays 30**. (See March 9, 2000 roll call on **HB 296** - Appendix.)

HB 296, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 296**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 405, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute No. 2 to **HB 405**. Agreed.

Representative Nunn moved that **HB 405**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 9, 2000 roll call on **HB 405** - Appendix.)

HB 405, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 405**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 720, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute to **HB 720**. Agreed.

Representative Collins moved that **HB 720**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 8**. (See March 9, 2000 roll call on **HB 720** - Appendix.)

HB 720, by way of Committee Substitute, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 720**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 349, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved the adoption of the Committee Substitute to **HB 349**. Agreed.

Representative C. Belcher moved that **HB 349**, by way of Committee Substitute, be passed.

Representative Tapp moved that **HB 349** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 28, Nays 58**. (See March 9, 2000 roll call that **HB 349** be laid on the Clerk's Desk- Appendix)

That motion that **HB 349** be laid on the Clerk's Desk was defeated.

Representative C. Belcher moved that **HB 349**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 55, Nays 38**. (See March 9, 2000 roll call on **HB 349** - Appendix.)

HB 349, by way of Committee Substitute, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 349**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HCR 139** be reassigned to the Committee on Labor and Industry and that the three day posting requirement be waived. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 10, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 151, by Representative Richards: A RESOLUTION recognizing the benefits of ethanol as an effective alternative to methyl-tertiary butyl ether (MTBE) in gasoline.

Report of Committees (Continued)

The Committee on Agricultural and Small Business reported **HB 855**, with Committee Substitute attached thereto, and **HJR 121** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 855, AN ACT relating to industrial hemp.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee;

(2) "Department" means the Kentucky Department of Agriculture;

(3) "Grower" means any person or business entity licensed as an industrial hemp grower under the provisions of Section 3 of this Act;

(4) "Handler" means any person that receives hemp for processing into hemp products;

(5) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;

(6) "Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of this paragraph, shall be excluded from the definition of marijuana, as defined in KRS 218A.010;

(7) "Records" means all commercial documents related to the production of industrial hemp, including accounts, correspondence, declarations, purchase orders, registers, seed invoices, and tetrahydrocannabinol (THC) concentration analysis reports, including all documentation required under Sections 1 to 8 of this Act and by any other state law regarding the growing and cultivation of industrial hemp;

(8) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three percent (3%); and

(9) "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) Growing, producing, handling, possessing, and engaging in commerce in industrial hemp shall be allowed in the Commonwealth of Kentucky in accordance with the provisions of Sections 1 to 8 of this Act.

(2) Industrial hemp shall be classified as an agricultural product and subject to regulation by the Commissioner under Sections 1 to 8 of this Act.

(3) The department shall promulgate administrative regulations, in accordance with the provisions of KRS Chapter 13A, to license the growing, handling, manufacture, production, and research of industrial hemp and hemp products.

(4) The department shall ensure that every grower maintains all industrial hemp production records for at least three (3)

years at the production site.

(5) The department shall work cooperatively with other state and federal agencies in assisting industrial hemp researchers, growers, and handlers to obtain the appropriate local, state, and federal permits necessary to grow industrial hemp.

(6) Growing, handling, and processing industrial hemp for commercial production shall be authorized and licensed by the department.

SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) Each person who produces industrial hemp shall obtain a license to grow. A license from the department shall be valid for twenty-four (24) months and may be renewed, but shall not be transferable. An application for a license shall be made to the department. The license fee provided for in subsection (2) of Section 8 of this Act shall accompany the application.

(2) A license from the department shall authorize industrial hemp production only at a site or sites as specified by the license.

(3) To qualify for a license from the department, an applicant shall demonstrate to the satisfaction of the department, in a manner prescribed by the Commissioner, that the applicant intends to and is capable of growing industrial hemp, and has adopted methods to ensure its legal production, which at a minimum shall include:

- *(a) Furnishing the Commissioner with a guaranteed irrevocable letter of credit or a surety bond executed by a surety company authorized to transact business in this state, in the sum of not less than two thousand dollars ($2,000), which the Commonwealth of Kentucky shall use to cover the cost of destroying any industrial hemp crop not in compliance with Sections 1 to 8 of this Act;*
- *(b) Controlling the supply and distribution of all industrial hemp seed obtained for planting in compliance with Sections 1 to 8 of this Act;*
- *(c) Filing with the department the location and acreage of all parcels sown and other field reference information as may be required by the Commissioner;*
- *(d) Ensuring that all parts of the industrial hemp plant not utilized as hemp products, such as flowers and leaves, are destroyed or recycled at the place of production;*
- *(e) Agreeing to the provisions of Section 4 of this Act regarding inspections by the department; and*
- *(f) Maintaining records that reflect compliance with the provisions of Sections 1 to 8 of this Act and with all other state laws regulating the planting and cultivation of industrial hemp.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The department shall enforce, administer, and implement the provisions of Sections 1 to 8 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

(2) For the purpose of the enforcement of the provisions of Sections 1 to 8 of this Act, the department is authorized during normal business hours to enter any public or private premises and land where industrial hemp is grown, kept, stored, or handled or other areas relating to hemp production. This access may be gained by use of any vehicle of transport, for the purpose of obtaining industrial hemp samples, THC samples, seed samples, and records pertaining to industrial hemp samples, THC samples, or seed sample test results. Therefore, the director may:

- *(a) Collect samples of up to one-tenth of one percent (0.1%) of the industrial hemp crop of a grower for inspection purposes;*
- *(b) Inspect equipment and other devices used in testing THC levels of industrial hemp to determine the accuracy of this equipment and these devices;*
- *(c) Condemn inaccurate testing equipment; and*
- *(d) Examine and copy records and take testimony for the purpose of ascertaining facts necessary to administer the provisions of Section 1 of this Act.*

(3) At the request of growers, handlers, or any local, state, or federal law enforcement or other authorized government agents, the Commissioner may test for THC levels in industrial hemp or conduct other tests of these plants or plant parts and products.

(4) The Commissioner shall enter into agreements with and cooperate with other federal, state, and local law enforcement or other authorized government agencies to implement and enforce Sections 1 to 8 of this Act.

(5) The Commissioner shall by January 15 of each year report to the Interim Joint Committee on Agriculture and Natural Resources about the implementation of Sections 1 to 8 of this Act and on the status of commercialization of industrial hemp in this state and elsewhere in the world, and recommend any changes to Sections 1 to 8 of this Act deemed appropriate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner may deny, suspend, revoke, or refuse to renew the license of any grower or handler that:

(a) Makes a false statement or misrepresentation on an application for a license or renewal of a license;

(b) Fails to comply with or violates any provisions of Sections 1 to 8 of this Act or any administrative regulation promulgated under Sections 1 to 8 of this Act; or

(c) Fails to take any action required by the department under the provisions of Sections 1 to 8 of this Act.

(2) Revocation or suspension of a license may be in addition to any criminal penalties or fines imposed on a grower under other state law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The department shall be the sole source and supplier of seed for use in industrial hemp research and production in the state. The department shall promulgate administrative regulations to secure all hemp seed under the control of the department, and to ensure that all hemp seed supplied to and used by growers is of only those varieties that meet the THC limitations of Section 1 of this Act.

(2) A grower shall use hemp seed obtained exclusively from the department.

(3) The department shall encourage the marketing and production of a Kentucky industrial hemp seed industry from Kentucky-grown plants and Kentucky strains of industrial hemp.

SECTION 7. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products. The department shall work cooperatively with a selected Kentucky land grant university's agricultural research program utilizing its expertise in the area of agricultural research.

(2) The Council on Postsecondary Education shall select a university where the industrial hemp program is to be established, after proposals are considered from all interested land grant universities in Kentucky.

(3) The selected land grant institution's industrial hemp research program shall undertake research of industrial hemp production in the state, and is waived from the state licensure procedure to grow hemp for industrial hemp and hemp seed research. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university is authorized to:

(a) Grow industrial hemp to conduct research relating to the production of commercial products, including, but not limited to, paper, clothing, and oils;

(b) Study the economic feasibility of developing an industrial hemp market in the Commonwealth;

(c) Report on the estimated value-added benefit that Kentucky businesses would reap by having an industrial hemp market in the Commonwealth;

(d) Study the research being conducted worldwide relating to industrial hemp production and utilization;

(e) Market Kentucky industrial hemp on the world market that can be grown on farms in the Commonwealth; and

(f) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.

(4) The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected land grant university where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This is a limited exemption that shall be strictly construed, and that shall not apply to any activities of the industrial hemp research program or the selected land grant university that are not expressly permitted in the authorization.

(5) The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.

(6) The Commissioner and the university shall cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp special program fund.

(7) By December 1, 2000, and annually thereafter, the university shall report on the status and progress of the industrial hemp research program authorized by this section to both the Commissioner and the Interim Joint Committee on Agriculture and Natural Resources. The Committee shall oversee the university research, with the advice of the Commissioner and the university, including progress in securing additional private or public funding for the industrial hemp research program.

SECTION 8. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury, a fund entitled the "Industrial Hemp Program Fund" to provide funds to offset the costs of the industrial hemp program. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a

trust and agency account and made available solely for the purposes and benefits of the industrial hemp program.

(2) A fee shall be charged by the Commissioner for each license granted to a grower or handler under this chapter. The fee amount charged for the first growing season shall be ten dollars ($10) per acre of land under cultivation. After the first growing season, the Commissioner shall recommend a fee amount to the General Assembly for its approval, to be used beginning with the growing season following the first growing season. All fee revenue shall be deposited in the special program fund established in subsection (1) of this section.

(3) The Commissioner shall by rule establish hemp seed prices to be charged growers under the provisions of Sections 1 to 8 of this Act. All proceeds of seed sales shall be deposited in the industrial hemp special program fund established in subsection (1) of this section.

(4) The industrial hemp program fund shall be used by the Commissioner to defray the cost of implementing Sections 1 to 8 of this Act.

The Committee Substitute No. 1 to **HB 855** is as follows:

HB 855, AN ACT relating to industrial hemp.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee;

(2) "Department" means the Kentucky Department of Agriculture;

(3) "Grower" means any person or business entity licensed as an industrial hemp grower under the provisions of Section 3 of this Act;

(4) "Handler" means any person that receives hemp for processing into hemp products;

(5) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;

(6) "Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of Sections 1 to 8 of this Act, shall be excluded from the definition of marijuana, as defined in KRS 218A.010;

(7) "Records" means all commercial documents related to the production of industrial hemp, including accounts, correspondence, declarations, purchase orders, registers, seed invoices, and tetrahydrocannabinol (THC) concentration analysis reports, including all documentation required under Sections 1 to 8 of this Act and by any other state law regarding the growing and cultivation of industrial hemp;

(8) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three percent (3%); and

(9) "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) Growing, producing, handling, possessing, and engaging in commerce in industrial hemp shall be allowed in the Commonwealth of Kentucky in accordance with the provisions of Sections 1 to 8 of this Act.

(2) Industrial hemp shall be classified as an agricultural product and subject to regulation by the Commissioner under Sections 1 to 8 of this Act.

(3) The department shall promulgate administrative regulations, in accordance with the provisions of KRS Chapter 13A, to license the growing, handling, manufacture, production, and research of industrial hemp and hemp products.

(4) The department shall ensure that every grower maintains all industrial hemp production records for at least three (3) years at the production site.

(5) The department shall work cooperatively with other state and federal agencies in assisting industrial hemp researchers, growers, and handlers to obtain the appropriate local, state, and federal permits necessary to grow industrial hemp.

(6) Growing, handling, and processing industrial hemp for commercial production shall be authorized and licensed by the

department.

SECTION 3. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) Each person who produces industrial hemp shall obtain a license to grow. A license from the department shall be valid for twenty-four (24) months and may be renewed, but shall not be transferable. An application for a license shall be made to the department. The license fee provided for in subsection (2) of Section 8 of this Act shall accompany the application.

(2) A license from the department shall authorize industrial hemp production only at a site or sites as specified by the license.

(3) To qualify for a license from the department, an applicant shall demonstrate to the satisfaction of the department, in a manner prescribed by the Commissioner, that the applicant intends to and is capable of growing industrial hemp, and has adopted methods to ensure its legal production, which at a minimum shall include:

(a) Furnishing the Commissioner with a guaranteed irrevocable letter of credit or a surety bond executed by a surety company authorized to transact business in this state, in the sum of not less than two thousand dollars ($2,000), which the Commonwealth of Kentucky shall use to cover the cost of destroying any industrial hemp crop not in compliance with Sections 1 to 8 of this Act;

(b) Controlling the supply and distribution of all industrial hemp seed obtained for planting in compliance with Sections 1 to 8 of this Act;

(c) Filing with the department the location and acreage of all parcels sown and other field reference information as may be required by the Commissioner;

(d) Ensuring that all parts of the industrial hemp plant not utilized as hemp products, such as flowers and leaves, are destroyed or recycled at the place of production;

(e) Agreeing to the provisions of Section 4 of this Act regarding inspections by the department; and

(f) Maintaining records that reflect compliance with the provisions of Sections 1 to 8 of this Act and with all other state laws regulating the planting and cultivation of industrial hemp.

(4) An applicant shall not qualify for a license to grow industrial hemp if the applicant has ever been convicted of, plead guilty to, or entered an Alford plea to a violation of:

(a) KRS Chapter 218A relating to growing or cultivating marijuana, or a predecessor statute relating to growing or cultivating marijuana;

(b) Any statutes in another state relating to growing or cultivating marijuana; or

(c) Any federal statute relating to growing or cultivating marijuana.

SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The department shall enforce, administer, and implement the provisions of Sections 1 to 8 of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

(2) For the purpose of the enforcement of the provisions of Sections 1 to 8 of this Act, the department is authorized during normal business hours to enter any public or private premises and land where industrial hemp is grown, kept, stored, or handled or other areas relating to hemp production. This access may be gained by use of any vehicle of transport, for the purpose of obtaining industrial hemp samples, THC samples, seed samples, and records pertaining to industrial hemp samples, THC samples, or seed sample test results. Therefore, the director may:

(a) Collect samples of up to one-tenth of one percent (0.1%) of the industrial hemp crop of a grower for inspection purposes;

(b) Inspect equipment and other devices used in testing THC levels of industrial hemp to determine the accuracy of this equipment and these devices;

(c) Condemn inaccurate testing equipment; and

(d) Examine and copy records and take testimony for the purpose of ascertaining facts necessary to administer the provisions of Sections 1 to 8 of this Act.

(3) At the request of growers, handlers, or any local, state, or federal law enforcement or other authorized government agents, the Commissioner may test for THC levels in industrial hemp or conduct other tests of these plants or plant parts and products.

(4) The Commissioner shall enter into agreements with and cooperate with other federal, state, and local law enforcement or other authorized government agencies to implement and enforce Sections 1 to 8 of this Act.

(5) The Commissioner shall by October 1 of each year report to the Interim Joint Committee on Agriculture and Natural Resources about the implementation of Sections 1 to 8 of this Act and on the status of commercialization of industrial hemp in this state and elsewhere in the world, and recommend any changes to Sections 1 to 8 of this Act deemed appropriate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner may deny, suspend, revoke, or refuse to renew the license of any grower or handler that:

(a) Makes a false statement or misrepresentation on an application for a license or renewal of a license;

(b) Fails to comply with or violates any provisions of Sections 1 to 8 of this Act or any administrative regulation promulgated under Sections 1 to 8 of this Act; or

(c) Fails to take any action required by the department under the provisions of Sections 1 to 8 of this Act.

(2) Revocation or suspension of a license may be in addition to any criminal penalties or fines imposed on a grower under other state law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The department shall be the sole source and supplier of seed for use in industrial hemp research and production in the state. The department shall promulgate administrative regulations to secure all hemp seed under the control of the department, and to ensure that all hemp seed supplied to and used by growers is of only those varieties that meet the THC limitations of Section 1 of this Act.

(2) A grower shall use hemp seed obtained exclusively from the department.

(3) The department shall encourage the marketing and production of a Kentucky industrial hemp seed industry from Kentucky-grown plants and Kentucky strains of industrial hemp.

SECTION 7. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products. The department shall work cooperatively with a selected Kentucky university's agricultural research program utilizing its expertise in the area of agricultural research.

(2) The Council on Postsecondary Education shall select a university where the industrial hemp program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.

(3) The selected institution's industrial hemp research program shall undertake research of industrial hemp production in the state, and is waived from the state licensure procedure to grow hemp for industrial hemp and hemp seed research. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university is authorized to:

(a) Grow industrial hemp to conduct research relating to the production of commercial products, including, but not limited to, paper, clothing, and oils;

(b) Study the economic feasibility of developing an industrial hemp market in the Commonwealth;

(c) Report on the estimated value-added benefit that Kentucky businesses would reap by having an industrial hemp market in the Commonwealth;

(d) Study the research being conducted worldwide relating to industrial hemp production and utilization;

(e) Market Kentucky industrial hemp on the world market that can be grown on farms in the Commonwealth; and

(f) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.

(4) The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected university where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This is a limited exemption that shall be strictly construed, and that shall not apply to any activities of the industrial hemp research program or the selected university that are not expressly permitted in the authorization.

(5) The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.

(6) The Commissioner and the university shall cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.

(7) By October 1, 2000, and annually thereafter, the university shall report on the status and progress of the industrial hemp research program authorized by this section to both the Commissioner and the Interim Joint Committee on Agriculture and Natural Resources. The Committee shall oversee the university research, with the advice of the Commissioner and the university, including progress in securing additional private or public funding for the industrial hemp research program.

SECTION 8. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury, a fund entitled the "Industrial Hemp Program Fund" to provide funds to offset the costs of the industrial hemp program. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative. Any unallocated

or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the industrial hemp program.

(2) A fee shall be charged by the Commissioner for each license granted to a grower or handler under Sections 1 to 8 of this Act. The fee amount charged for the first growing season shall be ten dollars ($10) per acre of land under cultivation. After the first growing season, the Commissioner shall recommend a fee amount to the General Assembly for its approval, to be used beginning with the growing season following the first growing season. All fee revenue shall be deposited in the individual hemp program fund established in subsection (1) of this section.

(3) The Commissioner shall promulgate regulations to establish hemp seed prices to be charged growers under the provisions of Sections 1 to 8 of this Act. All proceeds of seed sales shall be deposited in the industrial hemp program fund established in subsection (1) of this section.

(4) The industrial hemp program fund shall be used by the Commissioner to defray the cost of implementing Sections 1 to 8 of this Act.

HJR 121, A JOINT RESOLUTION requesting the United States Drug Enforcement Administration to revise federal policy to allow state regulated development of industrial hemp production and processing.

WHEREAS, the financial health of Kentucky's agricultural community has been weakened by declining sales of the state's foremost cash crop, tobacco; and

WHEREAS, while tobacco will remain an important crop for Kentucky farmers, nevertheless, agricultural leaders have been diligent in exploring other farm crops that hold promise for Kentucky producers; and

WHEREAS, industrial hemp shows promise as a cash crop because of Kentucky's climate, soil conditions, farm expertise, and past experience in growing the crop; and

WHEREAS, present federal regulations written to stop the growing of marijuana make research into the development of industrial hemp production and processing prohibitively expensive and growing industrial hemp outside of the federal regulatory program illegal; and

WHEREAS, the Commonwealth, with the assistance of the United States Department of Agriculture, could regulate the production and processing of industrial hemp in a less restrictive way yet meet the concerns of drug enforcement agencies;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly urges and requests the United States Drug Enforcement Administration to revise its policies regarding industrial hemp to be less restrictive and to allow states, with the assistance of the United States Department of Agriculture, to establish state regulatory programs that allow the development of industrial hemp production and processing.

Section 2. The General Assembly urges the members of the state's Congressional Delegation to request the United States Drug Enforcement Administration to carry out this revision of policy as quickly as possible.

Section 3. The clerk of the House of Representatives is directed to send copies of this Resolution to the Director of the United States Drug Enforcement Administration, to the Secretary of the United States Department of Agriculture, and to the members of Kentucky's Congressional Delegation.

The Committee on Judiciary reported **HB 291, HB 378,** with Committee Substitute attached thereto, **HB 533,** with Committee Substitute attached thereto, **HB 830, SB 3, SB 36,** with Committee Amendment attached thereto, **SB 65,** and **SB 107,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 291, AN ACT relating to the Circuit Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.
(2) Third Judicial Circuit.
(3) ***Fourth Judicial Circuit***
(4) Sixth Judicial Circuit.
(5)[~~(4)~~]Ninth Judicial Circuit.
(6)[~~(5)~~]Eleventh Judicial Circuit.

(7)[~~(6)~~]Fourteenth Judicial Circuit.
(8)[~~(7)~~]Seventeenth Judicial Circuit.
(9)[~~(8)~~]Twenty-fourth Judicial Circuit.
(10)[~~(9)~~] Twenty-seventh Judicial Circuit.
(11)[~~(10)~~] Thirty-first Judicial Circuit.
(12)[~~(11)~~] Thirty-second Judicial Circuit.
(13)[~~(12)~~] Thirty-fourth Judicial Circuit.
(14)[~~(13)~~] Forty-sixth Judicial Circuit.
(15)[~~(14)~~] Fifty-fourth Judicial Circuit.

Section 2. This Act takes effect upon the issuance by the Supreme Court of a certificate of necessity for the additional Fourth Judicial Circuit judgeship created by this Act in conformance with Section 112 of the Constitution of Kentucky if such a certificate is issued prior to the adoption by the General Assembly of the Judicial Branch budget for the 2000-2002 biennium.

HB 378, AN ACT relating to wrongful death actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased. ***As used in this section, the word "person" includes an unborn child from fertilization onward, without regard to age, health, or condition of dependency.***

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

Section 2. KRS 411.135 is amended to read as follows:

In a wrongful death action in which the decedent was ***either an unborn child from fertilization onward, without regard to age, health, or condition of dependency, or*** a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall apply to acts of physicians that cause the death of an unborn child if those acts were committed during any abortion to which the woman has consented, or to any acts of a pregnant woman that caused the death of her unborn child.

(2) As used in this section, "abortion" has the same meaning as in KRS 311.720.

The Committee Substitute No. 1 to **HB 378** is as follows:

HB 378, AN ACT relating to wrongful death actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased. ***As used in this section, the word "person" includes an unborn child from fertilization onward, without regard to age, health, or condition of dependency.***

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

Section 2. KRS 411.135 is amended to read as follows:

In a wrongful death action in which the decedent was ***either an unborn child from fertilization onward, without regard to age, health, or condition of dependency, or*** a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall apply to acts of physicians that cause the death of an unborn child if those acts were committed:

(a) During any abortion to which the woman has consented;

(b) Incident to an in vitro fertilization procedure; or

(c) As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the physician exercised that degree of care and skill which an ordinarily careful, skilled, and prudent physician would exercise under the same or similar circumstances.

(2) Nothing in this chapter shall apply to any acts of a pregnant woman that cause the death of her unborn child.

(3) As used in this section, "abortion" has the same meaning as in KRS 311.720.

HB 533, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.125 is amended to read as follows:

(1) ***(a) As used in this section, "community-service-related project" means a project involving work for:***

1. The Commonwealth or an agency of the Commonwealth;

2. A county, urban-county, charter county, city, special district, or an agency of any of these entities; or

3. A nonreligious-sponsored nonprofit, charitable, or service organization.

(b) Work on a community-service-related project shall not confer private benefit on a person except as may be incidental to the public benefit~~[As used in this section community service related project means work for a county, a city or a special district or an agency thereof. Prisoner work on community service related projects shall not confer a private benefit on a person except as may be incidental to the public benefit]~~.

(2) ***Each jailer shall write a policy governing prisoners working on community-service-related projects, and the fiscal court shall adopt the policy. The written policy shall state at a minimum:***

(a) Which type of prisoner, if any, shall be assigned to which type of work, taking into account the physical and

mental abilities of prisoners and security of the jail and the general public;

(b) ***That no prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others; and***

(c) ***That any prisoner may, for a valid medical reason, decline to work on community-service-related projects. No prisoner shall be punished or otherwise penalized for this refusal***~~[Pursuant to a written policy adopted by the fiscal court on the advice of the jailer, the jailer may permit certain prisoners to work on community service related projects. Before a prisoner is permitted to work in this type project, the county judge/executive or his designee shall sign his approval to the prisoner's participation]~~.

(3) ***A prisoner shall not begin work on a particular community-service-related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee***~~[In determining which prisoners may be worked on community service related projects and the nature of work to which a prisoner may be assigned, the jailer and the county judge/executive shall consider the physical and mental ability of the prisoner and the security of the jail and the general public. No prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others]~~.

(4) ***Participation in community-service-related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for which he or she performs the community service work***~~[Any prisoner may, for a valid medical reason, decline to work on community service related projects. No prisoner shall be punished or otherwise penalized for such refusal.~~

~~(5) The place of working such prisoners shall be determined by the county judge/executive and he shall enter an order on the order book of the county judge/executive, specifying the manner in which the prisoner may be worked.~~

~~(6) Participation in community services related projects shall not be deemed employment for any purpose]~~.

Section 2. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty; and

(b) In all other cases, the sheriff~~[or jailer]~~ of the county where the prisoner is incarcerated shall carry out this duty as provided in subsection (3) of this section.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with the exception that in the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In each county ***where there is no jail,*** the fiscal court or the legislative body of a charter county government, as appropriate, shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court or the legislative body of a charter county government, as appropriate, may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court or the legislative body of a charter county government, as appropriate, may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court or the legislative body of a charter county government, as appropriate, may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) ***Upon the recommendation of the jailer, the fiscal court shall employ a female transportation officer to assist the jailer in the transportation of female prisoners, when deemed necessary by the jailer.***

(5) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the Circuit and District Courts of the county as provided for in KRS 71.050.

(6) ***Nothing in this section shall prohibit the jailer from transporting the prisoners as he or she deems necessary.***

Section 3. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.

(4) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less ***or if a Class C felon is within five (5) years of release or parole eligibility and is***

classified as minimum security, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1) ***or a Class C felon convicted of a sexual offense enumerated in KRS 197.410(1)***, the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this subsection shall be granted a waiver by the commissioner of the Department of Corrections.

(5) The jailer of a county in which a Class D felon ***or a Class C felon*** is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

(6) Class D felons ***and Class C felons*** serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).

(7) State prisoners, excluding the Class D felons ***and Class C felons*** qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

The Committee Substitute No. 1 to **HB 533** is as follows:

HB 533, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.125 is amended to read as follows:

(1) ***(a) As used in this section, "community-service-related project" means a project involving work for:***

1. The Commonwealth or an agency of the Commonwealth;

2. A county, urban-county, charter county, city, special district, or an agency of any of these entities; or

3. A nonreligious-sponsored nonprofit, charitable, or service organization.

(b) Work on a community-service-related project shall not confer private benefit on a person except as may be incidental to the public benefit~~[As used in this section community service related project means work for a county, a city or a special district or an agency thereof. Prisoner work on community service related projects shall not confer a private benefit on a person except as may be incidental to the public benefit]~~.

(2) ***Each jailer shall write a policy governing prisoners working on community-service-related projects, which shall be submitted to the fiscal court for approval. The written policy shall state at a minimum:***

(a) Which type of prisoner, if any, shall be assigned to which type of work, taking into account the physical and mental abilities of prisoners and security of the jail and the general public;

(b) That no prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others; and

(c) That any prisoner may, for a valid medical reason, decline to work on community-service-related projects. No prisoner shall be punished or otherwise penalized for this refusal~~[Pursuant to a written policy adopted by the fiscal court on the advice of the jailer, the jailer may permit certain prisoners to work on community service related projects. Before a prisoner is permitted to work in this type project, the county judge/executive or his designee shall sign his approval to the prisoner's participation]~~.

(3) ***A prisoner shall not begin work on a particular community-service-related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee***~~[In determining which prisoners may be worked on community service related projects and the nature of work to which a prisoner may be assigned, the jailer and the county judge/executive shall consider the physical and mental ability of the prisoner and the security of the jail and the general public. No prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others]~~.

(4) ***Participation in community-service-related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for which he or she performs the community service work***~~[Any prisoner may, for a valid medical reason, decline to work on community service-related projects. No prisoner shall be punished or otherwise penalized for such refusal.~~

~~(5) The place of working such prisoners shall be determined by the county judge/executive and he shall enter an order on the order book of the county judge/executive, specifying the manner in which the prisoner may be worked.~~

~~(6) Participation in community services related projects shall not be deemed employment for any purpose]~~.

Section 2. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty; and

(b) In all other cases***,*** the sheriff~~[or jailer]~~ of the county where the prisoner is incarcerated shall carry out this duty as provided in subsection (3) of this section.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with the exception that in the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In each county ***where there is no jail,*** the fiscal court or the legislative body of a charter county government, as appropriate, shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court or the legislative body of a charter county government, as appropriate, may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court or the legislative body of a charter county government, as appropriate, may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court or the legislative body of a charter county government, as appropriate, may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) Upon the recommendation of the jailer, the fiscal court shall employ a female transportation officer to assist the jailer in the transportation of female prisoners, when deemed necessary by the jailer.

(5) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the Circuit and District Courts of the county as provided for in KRS 71.050.

(6) Nothing in this section shall prohibit the jailer from transporting the prisoners as he or she deems necessary.

Section 3. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.

(4) ***(a)*** The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this ***paragraph***~~[subsection]~~ shall be granted a waiver by the commissioner of the Department of Corrections.

(b) 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody, shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:

a. Beds are available in the county jail;

b. State facilities are at capacity; and

c. Halfway house beds are being utilized at the contract level as of July 15, 2000.

2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sexual offense enumerated in KRS 197.410(1), the sentence shall be served in a state institution.

3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.

(c) Any jail that houses state inmates under paragraph (a) or (b) of this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under paragraph (a) of (b) of this subsection.

(5) The jailer of a county in which a Class D felon ***or a Class C felon*** is incarcerated may request the commissioner of the

Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

(6) Class D felons ***and Class C felons*** serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).

(7) State prisoners, excluding the Class D felons ***and Class C felons*** qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

HB 830, AN ACT relating to pretrial diversion programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.262 is amended to read as follows:

(1) The pretrial diversion program authorized by KRS 533.250 to 533.260 shall be the sole program utilized in the Circuit Courts of the Commonwealth ***except for drug court diversion as approved by the Supreme Court and the Department of Corrections***.

(2) As of July 15, 1998, the only other pretrial diversion programs utilized by the Commonwealth shall be those authorized by the Kentucky Supreme Court and providing for the pretrial diversion of misdemeanants. Programs existing as of July 15, 1998 may continue for the purpose of supervising persons granted pretrial diversion prior to July 15, 1998, however no new persons shall be admitted to these programs.

(3) A person who is in a pretrial diversion program as of July 15, 1998 may continue in that program until he or she successfully completes the program or is removed from the program for other reasons, whichever occurs earlier.

SB 3, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person commits the offense of operating an unsecured motor vehicle when he or she operates a motor vehicle that is not secured as required by KRS 304.39-080.

(2) It shall be the duty of any person operating a motor vehicle in this state to ascertain whether or not the motor vehicle is secured as required by KRS 304.39-080, and the fact that the person operating the motor vehicle did not know that it was not secured as required by this chapter shall be no defense to a charge under this section.

(3) Any person who violates this section shall be subject to the penalties specified in KRS 304.99-060.

(4) It shall be an affirmative defense that the defendant had personal insurance or other security that met the requirements of KRS 304.39-080 that covered the defendant's operation of motor vehicle that he or she was operating at the time of the alleged offense.

SB 36, AN ACT relating to theft by deception.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:

- (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
- (b) Prevents another from acquiring information which would affect judgment of a transaction;
- (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
- (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued; ***or***

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any ***merchant's posted reasonable bad check handling*** fee ***and any fee***[~~ to be~~] imposed pursuant to subsection ***(5)***[~~(4)(c)~~] of this section***.***[~~; or~~]

(5)[~~(c)~~]If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ***twenty-five dollars ($25)***[~~ten dollars ($10)~~], if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

(6)[~~(5)~~]A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(7)[~~(6)~~]A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(8)[~~(7)~~]Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection[~~ (5) or~~] (6) ***or (7)*** of this section is three hundred dollars ($300) or more, in which case it is a Class D felony.

The Committee Amendment No. 1 to **SB 36** is as follows:

On page 2, line 8, following "***bad check handling*** fee" to insert "***not to exceed twenty-five dollars ($25)***".

SB 65, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance,[~~ except a substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or,~~] that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide;[~~ or~~] phencyclidine***; or a controlled substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers***.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 2. The following KRS section is repealed:

218A.1435 Trafficking in methamphetamine -- Penalties.

SB 107, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

In civil actions, when a judge determines that the court lacks jurisdiction to try the case due to an improper venue, the judge shall transfer the case to the court with the proper venue.

The Committee Substitute No. 1 to **SB 107** is as follows:

SB 107, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

In civil actions, when the judge of the court in which the case was filed determines that the court lacks venue to try the case due to an improper venue, the judge, upon motion of a party, shall transfer the case to the court with the proper venue.

The Committee on Education reported **HB 956,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 956, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board.[~~ After July 15, 1994,~~] All certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his ***or her*** file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board. ***Certificates shall also be issued to persons seeking alternative certification under the provisions of KRS 161.048 and any relevant administrative regulations of the Education Professional Standards Board.***

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky.

(a) ***New teachers shall be issued a statement of eligibility for five (5) years*** upon successful completion of the assessments and the approved teacher preparation program***. Upon securing employment in the new teacher's preparation area***, a ***professional*** certificate valid for one (1) year shall be issued.

(b) ***Out-of-state teachers who have not taken the required assessments shall be given a one (1) year provisional certificate and shall complete the assessments within that year. Upon successful completion of the assessments, a regular professional certificate shall be issued. Out-of-state teachers with certification to teach exceptional children shall not be subject to the provisions of this paragraph, but shall comply with the requirements in KRS 161.048 (7).***

(c) ***Teachers seeking additional certification shall be issued a regular certificate upon completion of the appropriate assessments and any other requirements set forth in administrative regulation***[~~If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester~~].

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The ***Education Professional Standards Board***[~~Department of Education~~] shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the

candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification ***purposes as defined in this section***~~[of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky]~~.

(5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship ***shall***~~[may]~~ be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160~~[or which has been accredited by a regional or national accrediting association]~~. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a~~[regionally or nationally accredited]~~ nonpublic school ***which has met the state performance standards, established in KRS 156.160, but the school is*** without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the ***Education Professional Standards Board***~~[Department of Education]~~ from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the ***Education Professional Standards Board***~~[Department of Education]~~ for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the ***Education Professional Standards Board***~~[Department of Education]~~. Priority shall be given to resource teachers in the following order:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. Teachers in the same school;
4. Teachers in the same district; and
5. Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district. ***A teacher intern may appeal a decision by the beginning teacher committee to the Education Professional Standards Board.***

(h) University and college faculty members in the colleges, schools, and departments of education who are responsible for the training of teachers and administrators shall serve on a beginning teacher committee or principal internship committee as defined in KRS 161.027 at least once within each accreditation cycle.

(i) A principal or assistant principal shall have successfully completed the principal internship program required in KRS 161.027 to be eligible for assignment to a beginning teacher committee. If the principal and assistant principal of the school where the internship is served do not meet this criterion, then the Education Professional Standards Board may assign another certified school employee within the same district who holds an

administrative credential and who has completed the training set forth in subsection (8) of this section to serve in lieu of the school principal on the beginning teacher committee.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, ***Education Professional Standards Board***~~[the chief state school officer]~~ shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal~~[hired after July 15, 1996,]~~ shall be required to complete the beginning teacher committee training program within one (1) year after his ***or her*** appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any ~~[standard]~~college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 2. KRS 161.042 is amended to read as follows:

(1) The Kentucky Board of Education shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the Kentucky Board of Education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A supervising teacher shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If obtainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years.

(4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a ***certified***~~[certificated]~~ teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned. ***A student teacher shall be knowledgeable of and held accountable for his or her actions under the teacher code of ethics.***

(5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

The Committee Substitute No. 1 to **HB 956** is as follows:

HB 956, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of

their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board.[~~ After July 15, 1994,~~] All certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his ***or her*** file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board. ***Certificates shall also be issued to persons seeking alternative certification under the provisions of KRS 161.048 and any relevant administrative regulations of the Education Professional Standards Board.***

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky.

(a) New teachers shall be issued a statement of eligibility for five (5) years upon successful completion of the assessments and the approved teacher preparation program***. Upon securing employment in the new teacher's preparation area***, a ***professional*** certificate valid for one (1) year shall be issued.

(b) Out-of-state teachers with less than five (5) years of experience who have not taken the required assessments shall be given a one (1) year provisional certificate and shall complete the assessments within that year. Upon successful completion of the assessments, and any internship requirements set forth in subsection (5) of this section a regular professional certificate shall be issued. Out-of-state teachers with certification to teach exceptional children shall not be subject to the provisions of this paragraph, but shall comply with the requirements in KRS 161.048 (7).

(c) Teachers seeking additional certification shall be issued a regular certificate upon completion of the appropriate assessments and any other requirements set forth in administrative regulation[~~If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester~~].

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The ***Education Professional Standards Board***[~~Department of Education~~] shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification ***purposes as defined in this section***[~~of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky~~].

(5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship ***shall***[~~may~~] be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a

teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school ***which has met the state performance standards, established in KRS 156.160, but the school is*** without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the ***Education Professional Standards Board***[~~Department of Education~~] from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the ***Education Professional Standards Board***[~~Department of Education~~] for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the ***Education Professional Standards Board***[~~Department of Education~~]. Priority shall be given to resource teachers in the following order:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. Teachers in the same school;
4. Teachers in the same district; and
5. Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district. ***A teacher intern may appeal a decision by the beginning teacher committee to the Education Professional Standards Board.***

(h) University and college faculty members in the colleges, schools, and departments of education who are responsible for the training of teachers and administrators shall serve on a beginning teacher committee or principal internship committee as defined in KRS 161.027 at least once within each accreditation cycle.

(i) A principal or assistant principal shall have successfully completed the principal internship program required in KRS 161.027 to be eligible for assignment to a beginning teacher committee. If the principal and assistant principal of the school where the internship is served do not meet this criterion, then the Education Professional Standards Board may assign another certified school employee within the same district who holds an administrative credential and who has completed the training set forth in subsection (8) of this section to serve in lieu of the school principal on the beginning teacher committee.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, ***Education Professional Standards Board***[~~the chief state school officer~~] shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal[~~ hired after July 15, 1996,~~] shall be required to complete the beginning teacher committee training program within one (1) year after his ***or her*** appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in

subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any ~~[standard]~~college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 2. KRS 161.042 is amended to read as follows:

(1) The Kentucky Board of Education shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the Kentucky Board of Education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A supervising teacher shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If obtainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years.

(4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a ***certified***~~[certificated]~~ teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned. ***A student teacher shall be knowledgeable of and held accountable for his or her actions under the teacher code of ethics.***

(5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 974, HJR 103, HJR 134, SB 147, HB 495, SB 254, SJR 69, HB 817**

Health and Welfare: **HB 661**

Motions, Petitions, and Communications (Continued)

Representative Damron moved the adoption of the following **Legislative Citation No. 100**.

The House of Representatives of the Commonwealth of Kentucky, hereby adjourns this legislative day in loving memory and honor of Frank "Pee Wee" King who is deeply mourned on this day and recognized by the members of this honorable body, as well as the citizens of this fair Commonwealth and his many and dear friends at the Grand Ole Opry, as one of this nations treasures, a country music legend who will be sorely missed and ever remembered by all those whose lives were touched by his presence. A member of the Country Music Hall of Fame, he co-authored, along with his fellow band member, Redd Stewart, and recorded The Tennessee Waltz; is further known for writing Bonaparte's Retreat, Slow Poke, The Kentucky Waltz, Ten-Gallon Boogie, Silver and Gold, Bull Fiddle Boogie, Waltz of Regret, Within My Heart, Two Roads to Nashville Waltz, Whisper Waltz, and Alabama Moon; and for his dear friend and fellow Hall of Famer, Charlie Walker, he wrote Hillbilly House Party, used by Walker for many years as his theme song for his Texas radio show. A remarkable songwriter and performer, Pee Wee King wrote and co-wrote more than 400 songs; and was credited with helping country music become American music and his influence and presence affected such country music greats as Roy Acuff, Ernest Tubb, Charlie Walker, Eddie Arnold, Little Jimmy Dickens, Gene Autry and Minnie Pearl, as well as many others. He performed, with his band, in several western movies with cowboy star, Johnny Mack Brown and his friend, Gene Autry. The host of a local television program, he also had a nationally syndicated radio show. He and his band, The Golden West Cowboys, managed by J. L. Frank and made up of Gene and Redd Stewart, Cowboy Copas, Sticks McDonald, Curley Rhodes, Texas Daisy, Milton Estes, and Shorty Boyd, along with other country greats, performed at the Grand Ole Opry, at The Nashville Palace, owned by his very close friend, Johnny Hobbs, as well as traveling all over the world, delighting and building a new audience of country music fans. Born February 18, 1914, in Abrams, Wisconsin, this talented and remarkable man, was not only involved in the entertainment field, devoted to music and to the success of the Grand Ole Opry, he was absolutely dedicated to his family, to Lydia, his beloved wife; to his loving children, Marietta Wuchterl, Frank, Gene and Larry L. King; to his devoted siblings, Ervin Kuczynski and Irene Cetnarowski; and to his cherished grandchildren and great-grandchildren; and was further deeply involved in community service, serving on the Board of Directors of the Salvation Army, performing for and contributing to the Crusade for Children in Louisville, Kentucky; was a faithful member of the St. John Lutheran Church; was a member of East Nashville Masonic Lodge 560; and a member of the Louisville Scottish Rite and the Kosair Shrine. Enjoying his affiliation with Masonic activities, he traveled on occasion with members and Past-Master Robert B. Schlenk, Jr., of Parkland Masonic Lodge 638. The members of this august body solemnly join with Representative Bob Damron in remembering Frank Anthony "Pee Wee" King as a faithful, talented and most generous gentleman and in honoring him in memory of his many contributions to his dear family, the community, the Commonwealth of Kentucky and the Grand Ole Opry Family. Done in Frankfort, this ninth day of March, in the year two thousand.

Legislative Citation No. 100 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 99**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of William Henry "Longhorn" Cox and offers its sincere condolences to his beloved wife, Maudie Cox; his loving children, Wanda Johnson, Charles Cox, Jerry Cox and Michael Cox; his devoted sisters, Kathleen Cox and Wilma Jackson; his cherished grandchildren and great-grandchildren; and all those who continue to share in the loss of this remarkable citizen of Flat Lick, Kentucky. The son of the late Harrison and Leoria Cox, Mr. Cox, a United States Army Veteran and a coal miner, enjoyed hunting and was seen, in his later years, sitting on the back of his pick-up truck beading in on an occasional rabbit. The esteemed members of this honorable body do solemnly join with Representative Jim Stewart in honoring the memory of William Henry "Longhorn" Cox for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this ninth day of March, in the year two thousand.

Legislative Citation No. 99 was adopted without objection.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess for a meeting on Appropriations and Revenue in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 787**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **SB 190**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that his vote be changed from "yea" to "nay" on **HB 676**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that he be recorded as voting "nay" on **HB 1**. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that he be recorded as voting "yea" on **HB 749** and **HB 296**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "nay" on **HB 996**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 676**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 405**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "nay" on **HB 996**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 660, HB 177, HB 421, HB 588, HB 288, HB 321,** and **HB 322** retroactively. Agreed.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 278, HB 388, HB 617, HB 629, HB 660,** and **HB 892** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 278, AN ACT relating to military burial honors, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth of Kentucky recognizes the need to provide for honorable burials for Kentuckians who have served their state and nation in the Armed Forces. Historically these burial services have been conducted by the active military units in Kentucky, the Kentucky National Guard, the military reserves, and the veterans' service organizations. However, increasing death rates, declining military resources, and an aging membership of veterans' service organizations present the need for new initiatives in support of military burial honors.

(2) To correct this situation, and recognizing the immediate need, the Department of Military Affairs shall oversee a military burial honors program, in coordination with the Department of Veterans' Affairs, on behalf of the Commonwealth of Kentucky.

(3) The Department of Military Affairs, in consultation with and as a supplement to the Department of Defense, active United States military commands in Kentucky, the Department of Veterans Affairs, the military reserves, and veterans service organizations, shall implement and administer the provisions of Sections 1 to 4 of this Act through the promulgation of administrative regulations. These regulations shall be in accordance with the provisions of KRS Chapter 13A and shall comply with and supplement the Department of Defense and the Armed Services' guidance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury a fund entitled the "Burial Honor Guard Trust Fund" to provide funds to offset the costs of the burial honor guard program. The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Adjutant General or his representative. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the burial honor guard program.

(2) The fund shall be used to support the costs, beyond federal reimbursements, that the Department of Military Affairs and the Department of Veterans Affairs incur and deem necessary in providing and supporting the personnel and activities of Sections 1 to 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Military Affairs shall promulgate administrative regulations to implement the burial honor guard program.

(2) The Department of Military Affairs shall coordinate military burial honors for those who are determined to be eligible by federal and state regulations.

(3) The Department of Veterans Affairs shall coordinate the burial honors program with veterans' service organizations, Kentucky veterans and their dependents, and the United States. Department of Veterans Affairs in support of the Department of Military Affairs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) Recognizing the participation of secondary school students in the military burial honor program, excused absences may be granted by local school boards to students of secondary school JROTC programs or other students who participate in the burial honor guard program. This includes time spent training, traveling, and participating in the burial honor guard program.

(2) Local school boards may also adopt a policy to allow students to participate in the military burial honor guard program

as a part of the instructional program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) An excused absence may be granted, subject to approval by the local school board, to all students of Kentucky secondary schools who participate in the burial honor guard program, as set out in Sections 1 to 4 of this Act. Most likely these would be students already participating in JROTC, drum corps, or other military programs, however, the burial honor guard program is not limited to these students. This excused absence should include time spent training, traveling, and participating in the burial honor guard program.

(2) The local school board may also adopt a policy to allow students to participate in the military burial honor guard program as a part of the instructional program.

(3) This policy of either excused absences or including burial honor guard program participation as a part of the instructional program shall not in any way penalize the local school district.

Section 6. There is appropriated from the general fund for each of fiscal years 2001 and 2002 the sum of fifty thousand dollars ($50,000) to the Burial Honor Guard Trust Fund established in Section 2 of this Act.

Section 7. This Act takes effect July 1, 2000.

HB 388, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.820 is amended to read as follows:

(1) The cabinet shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall~~[in all cases]~~ be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate *except as provided in Section 2 of this Act*.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) If the requirements of subsection (2) of this section are met, the cabinet shall not assess unmined minerals and other energy resources as a distinct interest in real property, separate and apart from the surface real estate. The property valuation administrator shall assess the surface at its agricultural or horticultural value and any unmined minerals and other energy resources shall be considered as a value in excess of the agricultural or horticultural use as provided in KRS 132.450(2)(d).

(2) Unmined minerals and other energy resources within or beneath parcels of real estate classified as agricultural or horticultural, as defined in Section 3 of this Act, that are not being extracted shall be included as a part of the surface real estate and shall be subject to assessment by the property valuation administrator if the surface real estate and the unmined mineral or other energy resource are owned by the same taxpayer.

(3) Notwithstanding the provisions of this section to the contrary, any leasehold interest in unmined minerals and other energy resources shall be assessed by the cabinet as a distinct interest in real property separate and apart from the surface real property interest, against the owner of the leasehold interest.

Section 3. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

  (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

  (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

  (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

  (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

  (c) The value of improvements to existing nonresidential property;

  (d) The value of new residential improvements to property;

  (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

  (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

  (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

  (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

  (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government. ***Agricultural land shall include only the surface real estate if the mineral or energy resource rights have been severed. Agricultural land shall include both the surface real estate and the mineral or energy resources if the mineral or energy resource rights have not been severed and if the value of the mineral or energy resources is less than the value of the surface for agricultural use. Agricultural land shall include only the surface real estate if the mineral or energy resource rights***

have not been severed and if the value of the mineral or energy resources is greater than the value of the surface for agricultural use. However, in no case shall agricultural land include leasehold interests in mineral and energy resources.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, ***excluding the value of any unmined minerals and other energy resources if the conditions established by Section 2 of this Act are met, and*** excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

- (a) Relative percentages of tillable land, pasture land, and woodland;
- (b) Degree of productivity of the soil;
- (c) Risk of flooding;
- (d) Improvements to and on the land that relate to the production of income;
- (e) Row crop capability including allotted crops other than tobacco;
- (f) Accessibility to all-weather roads and markets; and
- (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
- (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
- (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
- (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

HB 617, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 17B OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) “Administrator" is defined in KRS 304.9-051(1);

(2) "Agent" is defined in KRS 304.9-020;

(3) “Assessment process” means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in Section 11 of this Act;

(4) "Authority" means the Kentucky Health Care Improvement Authority;

(5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

(6) "Commissioner" is defined in KRS 304.1-050(1);

(7) "Department" is defined in KRS 304.1-050(2);

(8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer’s loss experience, expenses, and profit year to date;

(9) "Enrollee" means a person who is enrolled in a health plan offered under Kentucky Access;

(10) "Eligible individual" is defined in subsection (7) of Section 17 of this Act;

(11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance program established and operated under KRS 304.17A-400 to 304.17A-480;

(12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through September 30, 2000, in the individual market to guaranteed acceptance program qualified individuals;

(13) "Health benefit plan" is defined in KRS 304.17A-005(17);

(14) High-cost condition” means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;

(15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;

(16) "Insurer" is defined in subsection (22) of Section 17 of this Act;

(17) “Kentucky Access” means the program established in accordance with Sections 1 to 16 of this Act;

(18) "Kentucky Access Advisory Board" means an advisory board established in accordance with Section 4 of this Act;

(19) “Kentucky Access Fund” means the fund established in Section 11 of this Act;

(20) “Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in subsection (5) of Section 2 of this Act;

(21) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in subsection (5) of Section 2 of this Act;

(22) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;

(23) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

(24) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

(25) “Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);

(26) "Standard health benefit plan" means a health benefit plan that meets the requirements of Section 21 of this Act;

(27) “Stop-loss carrier” means any person providing stop-loss health insurance coverage;

(28) “Supporting insurer” means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and

(29) "Utilization management" is defined in KRS 304.17A-500(12).

SECTION 2. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall

be administered by a board of thirteen (13) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with Sections 1 to 16 of this Act and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

(a) The commissioner of the Department of Insurance, who shall serve as chair;

(b) The secretary of the Health Services Cabinet, who shall serve as vice chair;

(c) One (1) nonvoting member serving ex officio from the House of Representatives, who shall be appointed by and serve at the pleasure of the Speaker of the House;

(d) One (1) nonvoting member serving ex officio from the Senate, who shall be appointed by and serve at the pleasure of the President of the Senate;

(e) The deans of the University of Louisville Medical School and the University of Kentucky Medical School;

(f) The commissioner of the Department for Public Health;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of which shall be male and at least one (1) of which shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen at-large members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department of Insurance for administrative purposes and shall establish advisory boards it deems appropriate which shall consist of health insurance consumers, health care providers, and insurance company representatives to assist with oversight of fund expenditures.

(5) Grants and funds obtained under this chapter shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once, but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under Sections 1 to 16 of this Act. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 16 of this Act, including but not limited to retaining the staff it deems necessary for the proper performance of its duties.

(9) The board shall meet at least quarterly and at other times upon call of the chair or a majority of the board.

SECTION 3. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky

individual resident applying and qualifying for coverage. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.

(2) Kentucky Access shall operate under the supervision and approval of the Kentucky Health Care Improvement Authority.

(3) The authority shall adopt and submit its operating policies and procedures for Kentucky Access to the commissioner for approval. If the authority fails to adopt suitable operating policies and procedures after the establishment of the authority, the commissioner shall promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate the provisions of this subtitle and the administrative regulations shall remain in effect until superseded by operating procedures submitted by the authority and approved by the commissioner.

(4) Neither the authority nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless such act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

SECTION 4. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the Kentucky Health Care Improvement Authority shall, through itself or designated agents:

(1) Establish regular times and places for meetings of the members of the authority;

(2) Establish administrative and accounting procedures for the operation of Kentucky Access;

(3) Employ an executive director, financial director, operations director, and any other staff as necessary to administer and operate Kentucky Access;

(4) Enter into contracts as necessary;

(5) Take legal action necessary:

(a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;

(b) To recover any amounts erroneously or improperly paid by Kentucky Access;

(c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;

(d) To recover other amounts due Kentucky Access; or

(e) To operate and administer its obligations under the provisions of Sections 1 to 16 of this Act;

(6) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Rates and rate schedules may be adjusted for appropriate factors, including but not limited to age and sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(7) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization;

(8) Select a third-party administrator in accordance with Section 6 of this Act;

(9) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter as determined by the commissioner and require that all forms be submitted to and approved by the commissioner;

(10) Adopt nationally recognized uniform claim forms according to KRS 304.14-135;

(11) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including but not limited to eligibility requirements, procedures for enrollment, premium rates, and a toll-free telephone number to call for questions;

(12) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The authority shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;

(13) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the authority and be subject to an annual audit of its operations;

(14) Issue health benefit plans in accordance with the requirements of Sections 1 to 16 of this Act;

(15) Require a referral fee of fifty dollars ($50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;

(16) Bill and collect premiums from enrollees in the amount determined by the Authority;

(17) Assess insurers in accordance with Section 11 of this Act;

(18) Reimburse GAP participating insurers for GAP losses pursuant to Section 11 of this Act;

(19) Establish a Kentucky Access Advisory Board to review and discuss with the Kentucky Health Care Improvement Authority any issues that impact Kentucky Access. The board shall consist of eight (8) members: the commissioner of insurance plus seven (7) persons appointed by the authority to include two (2) representatives of insurers, two (2) representatives of health care providers, two (2) representatives of consumers, and one (1) representative of agents. The authority may establish other advisory boards as needed to carry out the duties and responsibilities of Sections 1 to 16 of this Act;

(20) Be audited by the Auditor of Public Accounts;

(21) By administrative regulation, amend the definition of high-cost conditions provided in Section 1 of this Act by adding other high-cost conditions; and

(22) Any other actions as may be necessary and proper for the execution of the authority's powers, duties, and obligations under Sections 1 to 16 of this Act.

SECTION 5. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the authority may, through itself or third parties:

(1) Exercise any and all powers granted to insurers under this chapter; and

(2) Sue or be sued.

SECTION 6. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Care Improvement Authority shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be a licensed administrator by the department. The authority shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:

  (a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;

  (b) The total cost to administer Kentucky Access;

  (c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;

  (d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and

  (e) A third-party administrator's financial condition and stability.

(2) The authority may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the authority on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the authority may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.

(3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

  (a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the authority;

  (b) Develop and establish policies and procedures for paying the agent referral fee under Sections 1 to 16 of this Act;

  (c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:

    1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that *includes information relating to the proper billing of a claim and the types of claim forms to use;*

2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and

3. Notification to an enrollee through an explanation of benefit if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;

(d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;

(e) Submit information to the department under KRS 304.17A-330;

(f) Submit reports to the authority regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the authority;

(g) Submit an annual report to the authority and the commissioner three (3) months after the end of each calendar year. The annual report shall include:

1. Earned premium;

2. Administrative expenses;

3. Incurred losses for the year;

4. Paid losses for the year;

5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and

6. Any other information requested by the authority or commissioner; and

(h) Be subject to examination by the department under Subtitles 2 and 3 of this chapter.

(4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between Kentucky Access and the third-party administrator.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The schedule of rates, premiums charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the Kentucky Health Care Improvement Authority and approved by the commissioner. Premiums charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium shall be covered by the Kentucky Access fund.

(2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial rates for plan coverage shall not be less than one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the authority with the approval of the commissioner. In no event shall premium rates exceed two hundred percent (200%) of the rates applicable to individual standard risks.

(3) Rates shall be filed with the authority in accordance with administrative regulations promulgated by the department.

(4) Premium rates for coverage issued by Kentucky Access shall be established annually by the authority, subject to the approval of the commissioner, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least two (2) insurers for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium greater than the Kentucky Access rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in Section 1 of this Act.

(3) A Kentucky Access enrollee whose premiums exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premiums for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, on the date of application for coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to October 1, 2000. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access for a period of two (2) years after the implementation of Kentucky Access without regard to the requirements of subsection (2) of this section;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Kentucky Access has paid out one million dollars ($1,000,000) in covered benefits. The maximum limit under this paragraph may be amended by the authority; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section may be terminated.

SECTION 9. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At least annually, the authority shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.

(2) The authority may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate resources for continued operation.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees which shall be similar to the health benefit plans currently being marketed to individuals in the individual market. One (1) plan shall be the standard health benefit plan, except for the lifetime limit as provided for in subsection (4)(d) of Section 8 of this Act and in subsection (10) of this section.

(2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed care form at such time as the authority can establish an appropriate provider network in available service areas.

(3) The authority shall provide for utilization review and case management for all health benefit plans issued through the authority.

(4) The authority shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the authority may amend or replace the health benefit plans issued through the authority.

(5) Individuals who apply and are determined eligible for health benefit plans issued through the authority shall have coverage effective the first day of the month after the application month.

(6) For eligible individuals, health benefit plans issued by the authority shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

(7) Health benefit plans issued by the authority shall be guaranteed renewable except as otherwise specified in Section 8 of this Act and KRS 304.17A-240.

(8) All health benefit plans issued by the authority shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(9) Health benefit plans issued by the authority shall coordinate benefits with other insurers and be the payor of last resort.

(10) Health benefit plans shall offer insurance coverage provided for in subsection (1) of this section up to a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum limit under this subsection may be amended by the authority.

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the other powers enumerated in Sections 1 to 16 of this Act, the authority shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses incurred prior to September 30, 2002, and funding Kentucky Access.

(a) The amount of the assessment for each calendar year shall be as follows:

1. From each stop-loss carrier, an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, to December 31, 1998;

3. If determined necessary by the authority, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and

4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period;

(b) The first assessment shall be for the period from January 1, 2000, to December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.

(2) Every supporting insurer shall report to the authority, in a form and at the time as the authority may specify, the following information for the specified period:

(a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

(b) Other information as the authority may require.

(3) As part of the assessment process, the authority shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.

(4) The Kentucky Access fund shall be funded from the following sources:

(a) Premiums paid by Kentucky Access enrollees;

(b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;

(c) Appropriations from the General Assembly;

(d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(e) Annual assessments from supporting insurers;

(f) A second assessment from supporting insurers;

(g) Gifts, grants, or other voluntary contributions;

(h) Interest or other earnings on the investment of the moneys held in the account; and

(i) Any funds remaining on October 1, 2000, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.

(5) The authority shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The authority shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year or portion thereof, up to and including September 30, 2002. The authority shall assess insurers as follows:

(a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.

(b) If the amount of actual guaranteed acceptance program plan losses exceeds the first assessment provided for in this section, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the assessments. In no event shall moneys received from the Kentucky health care improvement fund be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. Effective for any assessment on or after October 1, 2000, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.

(c) If GAP losses are fully covered by the assessment process provided for in under subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, as determined by the authority using reasonable actuarial principles, and Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall

be completed.

(6) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the authority shall calculate the net amount owed to or to be received from the fund, and the authority shall only collect assessments for or make payments from the fund based upon net amounts.

(7) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.

(8) Insurers shall pay any assessment amounts authorized in Sections 1 to 16 of this Act within thirty (30) days of receiving notice from the authority of the assessment amount.

(9) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.

(10) Assessments on health benefit plan premiums that are required under Sections 1 to 16 of this Act shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

(11) The authority shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of Sections 1 to 16 of this Act. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.

(12) The authority shall conduct examinations of insurers reasonably necessary to determine if the information provided by the insurers is accurate.

(13) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

(14) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

SECTION 12. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) After the end of each calendar year, until and including the calendar year ending December 31, 2002, a GAP participating insurer shall report the following information for the previous calendar year:

(a) The total earned premium in the individual, small group, large group, and association markets;

(b) The number of GAP policies in force as of December 31;

(c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;

(d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;

(e) The amount of the insurer's GAP losses; and

(f) Other information as the authority may require to be reported.

(2) After the end of each calendar year, until and including the calendar year ending December 31, 2002, and based upon the reports filed under subsection (1) of this section, the authority shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of GAP premiums for all reporting insurers;

(c) The total amount of GAP claims paid by all reporting insurers;

(d) The amount of total actual GAP losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the authority may elect to calculate and report.

The authority shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

(3) The authority shall pay GAP losses to GAP participating insurers in accordance with this section and subsection (5) of Section 11 of this Act.

(4) The authority shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 13. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health benefit plan issued to a GAP qualified individual under the GAP program shall be renewed at the option of the enrollee, except for reasons in KRS 304.17A-240.

(2) Except as required to implement Sections 1 to 16 of this Act, the Guaranteed Acceptance Program shall be terminated effective October 1, 2000.

(3) The authority shall not reimburse a GAP participating insurer for GAP losses incurred on or after October 1, 2002.

SECTION 14. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Kentucky Access and the authority shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 15. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and each subsequent regular session of the General Assembly thereafter, the authority shall submit a written report to the Legislative Research Commission. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, information provided for in subsection (2) of Section 8 of this Act, and other information as the authority deems necessary.

(2) Beginning no later than June 30, 2001, and annually thereafter, the Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research Commission and the Department of Insurance.

SECTION 16. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 16 of this Act on behalf of the authority.

(2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

- ***(a) Subtitle 1;***
- ***(b) Subtitle 2;***
- ***(c) Subtitle 3;***
- ***(d) Subtitle 5;***
- ***(e) Subtitle 8;***
- ***(f) Subtitle 9;***
- ***(g) Subtitle 12;***
- ***(h) Subtitle 14;***
- ***(i) Subtitle 17;***
- ***(j) Subtitle 17A;***
- ***(k) Subtitle 25;***
- ***(l) Subtitle 38; and***
- ***(m) Subtitle 47.***

Section 17. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

- (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
- (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
- (c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

  1. A group health plan;

2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals ***under KRS 304.17A-400 to 304.17A-480***;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program ***under KRS 304.17A-400 to 304.17A-480***;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who***, on or before September 30, 2000***:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer***, on or before September 30, 2000,*** that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, ***on or before September 30, 2000,*** provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of

Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition*,*" ***pursuant to the Kentucky Guaranteed Acceptance Program,*** means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) “Index rate” means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) “Individual market” means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) “Insurer” means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) “Large group” means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) “Market segment” means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 18. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and

(e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. ***After October 1, 2000, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Kentucky Health Care Improvement Authority and report to the commissioner any and all recommended changes. The commissioner shall report the recommendations to the authority.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 19. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate***, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years from the date of implementation of Kentucky Access; and***[~~.~~]

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed *fifteen*[~~ten~~] percent *(15%)*[~~(10%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) [~~(a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.~~

~~(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:~~

~~1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;~~

~~2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and~~

~~3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.~~

~~(4)~~] The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(4)[~~(5)~~]The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5)[~~(6)~~]In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6)[~~(7)~~]Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7)[~~(8)~~]The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market

segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(8)[~~(9)~~]For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9)[~~(10)~~] Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(10)[~~(11)~~] Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 20. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of[~~ paragraphs (a) and (b) of~~] this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured***, except as provided in Sections 1 to 16 of this Act***.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program ***or to Kentucky access,*** or to arrange for an individual employee to apply to ***either***[~~that~~] plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(6) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 21. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the[~~ individual or~~] small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200[~~ and 304.17A-210~~]. ***As a condition of doing business in the individual market on or after October 1, 2000, a health insurer shall offer the standard health benefit plan.*** Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an ***applicant or*** insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program ***until October 1, 2000***, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program. ***On or after October 1, 2000, the denial letter shall include a description of Kentucky Access and the name and telephone number of a contact person who can provide additional information about Kentucky Access for any reason an insurer refuses to issue a policy.***

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 22. KRS 304.17A-260 is amended to read as follows:

An insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after ***the effective date of this Act***[~~April 10, 1998~~], until January 1, ***2001***[~~1999~~], for approval to reenter Kentucky, and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 23. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:
  (a) All assessments placed on insurers under KRS 304.17A-460;
  (b) All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;
  (c) All rate review requirements placed on insurers under this subtitle;
  (d) All data collection requirements placed on insurers under this subtitle;[~~ and~~]
  (e) Provisions of Subtitle 12 of this chapter that apply to health insurers***; and***
  (f) All assessments placed on insurers under Kentucky Access.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

Section 24. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:
  (a) Two (2) representatives of insurers currently offering health benefit plans in the state;
  (b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and

(e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19)~~[and 304.17A-280]~~ and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 25. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers, shall submit a copy of the filing to the Attorney General, and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f)~~[The effect on the rates of any assessment made under KRS 304.17A-460; and~~

~~(g)]~~ Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6)[~~Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.~~

~~(7)~~] The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section.

Section 26. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5)[~~The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.~~

~~(6)~~] The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 27. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200 and 304.17A-210. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3)[~~The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.~~

~~(4)~~] Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(4)[~~(5)~~]Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(5)[~~(6)~~]Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(6)[~~(7)~~](a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection *(5)*[~~(6)~~] of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(7)[~~(8)~~]All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(8)[~~(9)~~]All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(9)[~~(10)~~] Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(10)[~~(11)~~] A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(11)[~~(12)~~] Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual

health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(12)[~~(13)~~] If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(13)[~~(14)~~] No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 28. KRS 304.17A-290 is amended to read as follows:

(1) Coverage of an individual who is not a state employee or a small group which on April 10, 1998, is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after April 10, 1998.

(2) The state employee health insurance fund established under KRS 18A.2281 shall be deemed an insurer as defined in KRS 304.17A-005 only for the coverage it provides to individuals not state employees or to small groups and only until such time as this coverage terminates in accordance with subsection (1) of this section.

(3)[~~The state employee health insurance fund established under KRS 18A.2281 shall be subject to assessments and reimbursements under KRS 304.17A-400 to 304.17A-480 only for the premium collected and the claims paid for individuals who are not state employees and the small groups which are covered by the fund.~~

~~(4)~~] Except as provided in this section, the state employee health insurance fund established under KRS 18A.2281 shall not be deemed an insurer for any other purpose in this chapter and, in no event, at any time more than twelve (12) months after April 10, 1998, shall it be deemed to be an insurer.

Section 29. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a)[~~All assessments placed on insurers under KRS 304.17A-460;~~

~~(b)~~] All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(b)[~~(c)~~] All rate review requirements placed on insurers under this subtitle;

(c)[~~(d)~~] All data collection requirements placed on insurers under this subtitle; and

(d)[~~(e)~~] Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

Section 30. Effective October 1, 2000, the following KRS sections are repealed:

304.17A-210 Guaranteed-issue basis of individual market plans -- Guidelines -- Exceptions.

304.17A-280 Additions to high-cost conditions list -- Hearing.

Section 31. Effective October 1, 2002, the following KRS sections are repealed:

304.17A-400 Guaranteed Acceptance Program -- Nondiscrimination in provider payment -- Participation by insurer as condition to do business.

304.17A-410 Definitions for KRS 304.17A-400 to 304.17A-480.

304.17A-420 Participating insurer -- Written notification of program status -- Program participating insurer requirements -- Exemptions.

304.17A-430 Criteria for program plan -- Alternative underwriting.

304.17A-440 Premium -- Limitations.

304.17A-450 Cost-containment feature requirement for program plans.

304.17A-460 Insurer annual reports -- Department calculations and notification to insurer -- Assessments and refunds -- Stop-loss carrier -- Examinations of participating insurers.

304.17A-470 Risk adjustment process -- Program account -- Funding -- Calculation of losses -- Assessments.

304.17A-480 Report to Legislative Research Commission -- Audit.

Section 32. Section 24 of this Act takes effect October 1, 2000.

Section 33. Sections 25 to 29 of this Act take effect October 1, 2002.

HB 629, AN ACT relating to Commonwealth legal actions, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that:

(a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide public officials is appropriate and required, whether the character of the assets or funds recovered are public or private;

(b) Accountability for assets or funds recovered by statewide elected officials is essential to the public trust, and is even more critical if the Commonwealth or its duly elected or appointed statewide public officials have brought or been a party to the action that resulted in the recovery by virtue of the public office they hold;

(c) Public accountability demands the applicability of the Kentucky Open Records Law, KRS 61.870 to KRS 61.884 and the Kentucky Open Meetings Law, KRS 61.805 to KRS 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny;

(d) The General Assembly acknowledges that the Attorney General of Commonwealth of Kentucky has filed or been a party to actions by virtue of the public office he holds, and has recovered certain assets or funds of approximately forty-five million dollars ($45,000,000), plus interest, for or on behalf of the citizens of the Commonwealth in the cases of Commonwealth of Kentucky, ex. rel., Attorney General, Albert B. Chandler, III vs. Anthem Insurance Companies Inc., Southeastern Group, Inc., Southeastern United Medigroup, Inc. Franklin Circuit Court, Division I, Civil Action No. 97-CI- 01566, and Southeastern United Medigroup, Inc., Southeastern Groups, Inc., and Anthem Insurance Companies, Inc., v. Commonwealth of Kentucky, Department of Insurance, Franklin Circuit Court, Division II, Civil Action no. 97-CI-00405;

(e) The terms of the settlement of those actions referenced in subsection (1)(d) of this section, serve a public purpose and require that the proceeds of settlement be used "to address the unmet health care needs of Kentucky citizens";

(f) In accordance with the terms of the settlement referenced in subsection (1)(d) of this section, a private foundation has been or is to be formed and appointments to that foundation made after receiving recommendations from an advisory board whose appointments will be made from nominees of the Attorney General;

(g) While it may be important that, in certain circumstances, funds or assets received retain their character, identity, and purpose, it is also important that the process by which funds are administered and the individuals named to serve on the advisory board and the foundation in the settlement referenced in subsection (1)(d) of this section be open to public scrutiny; and that any entity so formed should be required to make reports and be accountable to the public; and

(h) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the General Assembly, as a steward of the budgetary process, shall take steps to assure that future settlements are handled in a manner that assures maximum accountability to the citizens of the Commonwealth and their duly elected legislative representatives:

(2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:

(a) The provisions of subsection (3) of this section shall apply to the settlement referenced in subsection (1)(d) of this section, and to the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity, created by court order or otherwise to administer the settlement proceeds to provide for the "unmet health care needs of Kentucky citizens"; and

(b) The provisions of subsection (4) of this section shall apply to any judgment or settlement of any legal action, other than the settlement referenced in subsection (1)(d) of this section, that has been filed or settled after the effective date of this Act, by or on behalf of the Commonwealth of Kentucky, including ex. rel. or other type actions filed by a duly elected statewide constitutional officer in accordance with that officer's statutory or common law authority, where funds or assets of any kind or nature whatsoever have been recovered.

(3) The advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity, created by court order or otherwise, in accordance with the settlement outlined in subsection (1)(d) of this section, shall be deemed a quasi governmental organization or entity, and shall:

(a) Be subject to the Kentucky Open Record Act, KRS 61.870 to KRS 61.884, and the Kentucky Open Meetings Act, KRS 61.805 to KRS 61.850;

(b) Be audited on an annual basis by the Auditor of Public Accounts;

(c) Provide any records, documents, written reports, and audits to the Governor, Auditor of Public Accounts, and the Legislative Research Commission, as may be requested;

(d) Provide representatives of the organization or entity to testify before any committee of the General Assembly, when requested, concerning the work and financial condition of the organization or entity;

(e) Submit to the General Assembly for confirmation under KRS 11.160, all appointments to the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity;

(f) Include the Secretary of the Finance and Administration Cabinet and the State Controller as ex-officio, voting members of the board of directors of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity;

(g) Provide that the Governor shall appoint two (2) additional, at-large, voting members of the board of directors of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity, and

(h) Provide a written copy of any proposed disbursements of funds or assets to the Co-Chairs of the Interim Joint Committee on Appropriations and Revenue, the Secretary of the Finance and Administration Cabinet, and the State Controller a minimum of ninety (90) days prior to making disbursements:

1. Within forty-five (45) days of receipt of the request for disbursement of funds or assets in accordance with this subsection, the Interim Joint Committee on Appropriations and Revenue may hold a hearing on the proposed disbursements. Representatives of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission or entity seeking disbursement shall appear, as well as the Secretary of the Finance and Administration Cabinet, and the State Controller, and shall give testimony concerning the proposed disbursement. Following the hearing, the Interim Joint Committee on Appropriations and Revenue shall make findings concerning whether or not the disbursement:

a. Is consistent with the nature, character, and purpose for which the funds were recovered;

b. Is in the best interest of the beneficiaries; or

c. Is in the best interest of the Commonwealth.

A copy of the findings shall be mailed or otherwise delivered to the entity or organization seeking disbursement, the Secretary of the Finance and Administration Cabinet, and the State Controller within ten (10) days of the hearing:

2. If, after hearing, the Interim Joint Committee on Appropriations and Revenue, determines that the disbursement of funds or assets is not consistent with the nature, character, and purpose for which the funds were recovered, is not in the best interest of the beneficiaries, or is not in the best interest of the Commonwealth, the disbursement of the funds or assets shall not be made, unless within thirty (30) days of the receipt of the finding of the Interim Joint Committee on Appropriations and Revenue, the Secretary of the Finance and Administration Cabinet and the State Controller determine, in writing, that the disbursement should be made in spite of the objections of the Interim Joint Committee on Appropriations and Revenue.

3. A copy of the finding in subparagraph 2. of this paragraph shall be mailed immediately to the co-chairs of the Interim Joint Committee on Appropriations and Revenue.

(4) (a) Funds or assets of any kind or nature whatsoever, including but not limited to, public funds as defined in KRS 446.010 and private funds or assets, except as otherwise provided in subsection (6) of this section, when recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex. rel. or other type actions filed by a duly elected statewide constitutional officer pursuant to that officer's statutory or common law authority, other than the settlement outlined in subsection (1)(d) of this section, shall be deemed public funds, and shall be deposited into an account maintained by the Finance and

Administration Cabinet.

(b) No funds to which this subsection applies when deposited in an account maintained by the Finance and Administration Cabinet shall be disbursed without a specific legislative appropriation of the deposited funds by the General Assembly while in regular or special legislative session.

(5) The common law, including the common law authority of any duly elected statewide public official, is specifically abrogated to the extent it is inconsistent with the provisions of this section.

(6) The provisions of this section shall not apply to actions by or on behalf of the Commonwealth or its duly elected statewide constitutional officers, but only if the recovery sought and received is for specific individuals, identified as parties to the action either by individual social security number, other individual identifying number, or by the individual's proper name.

Section 2. KRS 15.020 is amended to read as follows:

The Attorney General is the chief law officer of the Commonwealth of Kentucky and all of its departments, commissions, agencies, and political subdivisions, and the legal adviser of all state officers, departments, commissions, and agencies, and when requested in writing shall furnish to them his written opinion touching any of their official duties, and shall prepare proper drafts of all instruments of writing required for public use, and shall exercise all common law duties and authority pertaining to the office of the Attorney General under the common law, except when modified by statutory enactment. He shall communicate with the Legislative Research Commission as required by KRS 418.075. He shall appear for the Commonwealth in all cases in the Supreme Court or Court of Appeals wherein the Commonwealth is interested, and shall also commence all actions or enter his appearance in all cases, hearings, and proceedings in and before all other courts, tribunals, or commissions in or out of the state, and attend to all litigation and legal business in or out of the state required of him by law, or in which the Commonwealth has an interest, and any litigation or legal business that any state officer, department, commission, or agency may have in connection with, or growing out of, his or its official duties, except where it is made the duty of the Commonwealth's attorney or county attorney to represent the Commonwealth. *If any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any action, including an ex. rel action where the Attorney General has entered an appearance or is a party according to statutory or common law authority, those funds shall be handled under Section 1 of this Act.* When any attorney is employed for any said agency, the same shall have the approval of such agency before such employment.

Section 3. KRS 15.060 is amended to read as follows:

The Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the Revenue Cabinet, investigate the condition of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the Revenue Cabinet to do so.

(4) Comply with Section 1 of this Act, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex. rel action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

KRS 367.190, 367.200, 367.210, 367.220 and KRS 367.110 to 367.360 to the contrary notwithstanding, if funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth in a legal action, including an ex. rel action in which the Attorney General has entered an appearance or is a party under statutory or common law authority, those funds recovered shall be handled in accordance with Section 1 of this Act.

Section 5. The provisions of this Act shall apply to the settlement of the actions set out in Section 1(1)(d) of this Act and specifically to the proceeds of a settlement currently in a restricted account in the Finance and Administration Cabinet, titled the "Anthem Settlement Fund" pursuant to Agreed Order, entered on December 16, 1999, in the case of Commonwealth of Kentucky, ex rel., Attorney General Albert B. Chandler, III, v. Anthem Insurance Companies, Inc., Southeastern Group, Inc., Southeastern United Medigroup, Inc., Franklin Circuit Court, Division No. I, 97-CI-01566; and those funds and no others are therefore specifically appropriated according to the terms of the settlement agreement between the parties, subject, however, to the provisions of this Act.

Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 7. Because it is critical that funds or assets acquired through litigation by or on behalf of the Commonwealth be properly appropriated by the General Assembly and disbursed in an accountable, orderly and appropriate fashion, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 660, AN ACT relating to sales tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;[~~ and~~]

(14) Gross receipts from the sale of water used in the raising of equine as a business*; and*

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection metal retail fixtures means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific customer specifications, that are to be used directly by the purchaser or to be distributed by the purchaser

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet.

Section 2. The provisions of this Act shall apply to sales of metal retail fixtures made on or after August 1, 2000.

HB 892, AN ACT relating to coal taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 143.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means "Revenue Cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly. However, the cabinet may, under certain conditions, authorize a quarterly

reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:

  (a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

  (b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the cabinet may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) Transportation expense shall mean:

  (a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

  (b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

  (c) Transportation expenses shall not include:

    1. The cost of acquisition, improvements, and maintenance of real property;

    2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities;

    3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

(13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location.

(14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate below the surface drainage level.

(15) "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

SECTION 2. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO READ AS FOLLOWS:

(1) A nonrefundable severance tax credit against the severance tax imposed by KRS 143.020 shall be allowed as follows.

  (a) For coal mined from above-drainage seams using deep mining or underground mining methods, the credit shall be equal to:

    1. One and one-half percent (1.5%) of the gross value of coal with a coal thickness of between thirty-two (32) and thirty-six (36) inches or that has an average sulfur content, on an as received basis, of three and one-half percent (3.5%) or greater and less than four and one-half percent (4.5%);

    2. Two and one-quarter percent (2.25%) of the gross value of coal with a coal thickness of between twenty-eight (28) and thirty-two (32) inches or that has an average sulfur content, on an as received basis, of four and one-half percent (4.5%) or greater; or

    3. Three percent (3%) of the gross value of coal with a coal thickness of less than twenty-eight (28) inches.

  (b) For coal mined from below-drainage seams using deep mining or underground mining methods, the credit shall be equal to:

    1. Two and one-quarter percent (2.25%) of the gross value of coal with a coal thickness of between thirty-two (32) and thirty-six (36) inches or that has an average sulfur content, on an as received basis, of three and one-half percent (3.5%) or greater and less than four and one-half percent (4.5%);

    2. Three percent (3%) of the gross value of coal with a coal thickness of between twenty-eight (28) and thirty-two (32) inches or that has an average sulfur content, on an as received basis, of four and one-

half percent (4.5%) or greater; or

3. *Three and three-quarters percent (3.75%) of the gross value of coal with a coal thickness of less than twenty-eight (28) inches.*

(c) *For coal mined from seams by surface mining, excluding highwall or auger mining, the credit shall be equal to:*

1. *Two and one-quarter percent (2.25%) of the gross value of coal that has a mining ratio of fifteen (15) or greater and less than eighteen (18) banked cubic yards of overburden to every one (1) clean ton of coal or that has an average sulfur content, on an as received basis, of three and one-half percent (3.5%) or greater and less than four and one-half percent (4.5%); or*

2. *Three percent (3%) of the gross value of coal that has a mining ratio of eighteen (18) or greater banked cubic yards of overburden to every one (1) clean ton of coal or that has an average sulfur content, on an as received basis, of four and one-half percent (4.5%) or greater.*

(2) Coal thickness and mining ratio under subsection (1) of this section shall be based on the weighted average isopach mapping of actual coal thickness or mining ratio by mine as certified by a professional engineer for each reporting period. The taxpayer shall attach a copy of the certified isopach mapping for each reporting period to the return filed for that period.

(3) The taxpayer shall take the tax credit under this section in conjunction with the taxpayer's monthly return.

The Committee on Appropriations and Revenue reported **HB 177,** with Committee Substitute attached thereto, **HB 288,** with Committee Amendment attached thereto, **HB 421, HB 564,** and **HB 588,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 11 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"*(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:*

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.";

On page 52, line 13, after "138.480" by inserting "*; and*

(d) The sale of lottery tickets by the Kentucky Lottery Corporation";

On page 68 between lines 10 and 11, insert the following:

"Section 46. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)~~[;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243]~~.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 47. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ and upon all distributors of beer at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

SECTION 48. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 48 to 55 of this Act, unless the context requires otherwise:

(1) "Board" means the board of directors of the Kentucky Recycling Cooperative Group;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Distribution center" means a recycling facility that is capable of receiving a variety of unprocessed or processed materials from satellite centers and materials recovery facilities, and that stores the material for further processing or for transport to the marketplace;

(4) "Group" means the Kentucky Recycling Cooperative Group;

(5) "Local government" means any county, urban-county government, waste management district, city, or charter county government;

(6) "Participating local government" means a local government entity that joins a region and participates in the Kentucky Recycling Cooperative Group;

(7) "Executive director" means the executive director of the Kentucky Recycling Cooperative Group, who shall also serve as chief executive officer of the group;

(8) "Region" means a group of three (3) or more counties combined to form a recycling operation; and

(9) "Satellite center" means a local government collection site for recovered materials containing minimal equipment that

prepares material for transport to a materials recovery facility or distribution center.

SECTION 49. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a state recycling cooperative program, which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky that shall be a public body corporate and politic to be known as the Kentucky Recycling Cooperative Group. The group shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This group shall perform functions and purposes essential to managing the recycling cooperative program and disbursing moneys from the recycling cooperative fund established in Section 55 of this Act. It is the intent of the General Assembly that the Kentucky Recycling Cooperative Group shall assist regions in establishing a recycling cooperative program whereby participating local governments will be able to operate recycling programs and combine recovered material in order to market that material collectively through the Kentucky Recycling Cooperative Group.

(2) The existence of the group shall begin upon appointment of the members of the group by the Governor as provided in Section 50 of this Act, which shall occur no later than October 1, 2000.

(3) Participating local governments shall be eligible to receive grant and other money from the recycling cooperative fund established in Section 55 of this Act.

SECTION 50. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the group shall be administered by a board of directors composed of fifteen (15) members as follows:

(a) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Council of Area Development Districts;

(b) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky League of Cities;

(c) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Association of Counties;

(d) One (1) person appointed by the Governor from the Department for Local Government;

(e) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Jailers' Association;

(f) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Sheriffs' Association;

(g) One (1) person appointed by the Governor, from a list of three (3) persons nominated by Adopt-a-Highway district coordinators;

(h) One (1) person appointed by the Governor from the Kentucky Environmental Education Council;

(i) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Solid Waste Coordinators of Kentucky;

(j) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation;

(k) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Retail Federation;

(l) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Bottlers' Association;

(m) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Grocers' Association;

(n) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Urban Affairs Council; and

(o) One (1) person appointed by the Governor from the Department of Corrections.

(2) No member of the board of directors shall knowingly use or attempt to use his or her influence in any manner that involves a substantial conflict between the member's personal or private interest and his or her duties to the group.

(3) Of the fifteen (15) members identified in paragraphs (a) to (o) of subsection (1) of this section and first appointed, five (5) shall continue in office for terms of one (1) year, five (5) for terms of two (2) years, and five (5) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case in the same manner as originally appointed. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.

(4) Eight (8) members of the group shall constitute a quorum.

(5) The members of the Kentucky Recycling Cooperative Group shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the group to be paid as an administrative cost of the group.

(6) The executive director of the group shall be hired by the board of directors. The executive director shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 48 to 55 of this Act and shall hold office at the pleasure of the group. The salary of the director shall be determined by the group. The director shall, upon the advice and consent of the group, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 48 to 55 of this Act.

SECTION 51. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors shall:

- *(a) Approve, disapprove, amend, or modify the budget, guidelines, and implementation plan recommended by the executive director for the recycling cooperative program;*
- *(b) Establish guidelines for counties in the use of fund money utilizing the framework provided by area solid waste management plans as established in KRS 224.43-340;*
- *(c) Develop a formula for the distribution of fund money as authorized by subsection (2) of Section 55 of this Act;*
- *(d) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out and implement its powers and duties and the operation of the group;*
- *(e) Assist in the development and implementation of statewide public education programs for recycling and solid waste reduction;*
- *(f) Promote the development of resource recovery research and the development of markets within the Commonwealth of Kentucky for recovered material;*
- *(g) Monitor activities and progress achieved in solid waste management and, with the advice of the solid waste industry, make recommendations to the General Assembly on ways to address future trends and needs of litter, open dumps, and recycling. Recommendations shall be provided to the General Assembly by October 1 of each year, beginning October 1, 2001; and*
- *(h) Develop and submit an annual report by October 1 of each year, beginning October 1, 2001, to the General Assembly on the activities of the group, the administration of fund moneys, and any recommendations that would improve the recycling cooperative program and marketing of recovered material.*

(2) In all other matters, the board shall advise and make recommendations.

SECTION 12. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The group shall conduct and administer the recycling cooperative program with a goal of establishing sound recycling operations at a regional level. It shall be the duty of the group, its employees, and the members of the board to provide for the effective operation of the recycling cooperative program which insures efficient use of resources and improvement of regional recycling operations. The group, in pursuit of the attainment of the objectives and purposes of Sections 48 to 55 of this Act, may:

- *(a) Sue and be sued in its corporate name;*
- *(b) Adopt a corporate seal and a symbol;*
- *(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;*
- *(d) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with commercial banks;*
- *(e) Receive and accept grants, contributions of money, property, labor, or other things of value from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation to be used to carry out the functions of the group;*
- *(f) Acquire or incorporate existing recycling operations into the recycling cooperative program that will further the role of the group;*
- *(g) Create a nonprofit corporation in accordance with the provisions of KRS 273.161 to 273.390 to act as the instrumentality and constituted authority of the group in the acquisition and financing of any recycling operation; and*
- *(h) Establish affiliation or brokerage fees, and establish services at cost subject to approval by the board to be used to carry out the functions of the group.*

(2) The group shall:

(a) Implement and carry out the recycling cooperative program in accordance with the provisions of Sections 48 to 55 of this Act and the administrative regulations promulgated by the board or group;

(b) Distribute money from the recycling cooperative fund as authorized by Section 55 of this Act;

(c) Submit quarterly and annual reports to the board containing financial statements that include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(d) Keep accurate books, records, and accounts of all entities receiving payments from the recycling cooperative fund;

(e) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 48 to 55 of this Act;

(f) Develop a training program for participating local governments in the recycling cooperative program;

(g) Act as a state broker for regions seeking to sell recovered material by contracting with processors, secondary material manufacturers, or other brokers;

(h) Return to the participating local government its portion of money received from the sale of recovered material according to the quantity and type of recovered material and current market value; and

(i) Develop an economical transportation system for the recovered material to go to material recovery facilities or distribution centers and to market.

SECTION 53. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall:

(a) Supervise and administer the recycling cooperative program in accordance with the provisions of Sections 48 to 55 of this Act and the administrative regulations promulgated by the board or group;

(b) Establish a budget, guidelines, and implementation plan for the group;

(c) Employ and direct personnel as may be necessary to carry out the purposes of Sections 48 to 55 of this Act;

(d) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of the director's office and to advise the board and recommend administrative regulations and other matters the director deems necessary and advisable to improve the operation and administration of the recycling cooperative program; and

(e) Attend meetings of the board or appoint a designee to attend on his or her behalf;

(2) The executive director, with the approval of the board, may amend or modify the budget for the proper operation of the group.

SECTION 54. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for auditing the recycling cooperative account, and the costs of the audit shall be considered an administrative cost to be borne by the fund. Withing sixty (60) days of completing the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission, the Kentucky Recycling Cooperative Group, and the board.

SECTION 55. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Recycling Cooperative Fund," is hereby created in the State Treasury of the Commonwealth to be administered by the Kentucky Recycling Cooperative Group established in Section 49 of this Act. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

(a) Up to fifty percent (50%) for infrastructure development and equipment for regional distribution centers, materials recovery facilities, satellite processing facilities, and ongoing recycling programs to be distributed to participating local governments through a grant program administered by the group;

(b) Up to forty percent (40%) for solid waste and recycling activities, litter and illegal dump cleanup, and the operation of universal solid waste collection, including the payment of uncollected solid waste pick-up fees, to be distributed to participating local governments through a formula based on population and total road miles to be determined by the board;

(c) Up to three percent (3%) of the fund shall be used for administrative costs by the Kentucky Recycling Cooperative Group and Revenue Cabinet;

(d) Up to five percent (5%) to be used as matching fund money for developing and implementing a recycling educational curriculum in elementary and secondary schools by the Kentucky Environmental Education

Council; and

(e) Up to two percent (2%) to be used as matching fund money for the Adopt-a-Highway Program and public service announcements by the Department of Transportation.

(3) Unexpended money from subsection (2) of this section remaining in the fund at the end of the fiscal year shall revert to the recycling cooperative fund and shall be authorized and administered by the group for the operation of the recycling cooperative program, county solid waste management programs, and other solid waste activities as determined by the group.

(4) Each participating local government shall receive its share of the money from the sale of recovered material. This money shall not be part of the recycling cooperative fund, but shall be maintained and accounted for by the group, and it shall be the executive director's responsibility to insure that each participating local government receives accurate payments from the sale of recovered material.";

On page 68, line 11, delete "46" and insert "56" in lieu thereof;

On page 68, between lines 12 and 13, insert the following:

"Section 57. There is hereby appropriated from the general fund to the recycling cooperative fund created in Section 55 of this Act, to carry out the provisions of Sections 48 to 55 of this Act, fifteen million dollars ($15,000,000) in fiscal year 2000-2001 and fifteen million dollars ($15,000,000) in fiscal year 2001-2002."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 12 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 23, between lines 24 and 25, insert the following:

"*(3) The tax imposed under this section shall not apply to any family or individual residing in a residential unit that has a gross income equal to or less than one hundred twenty-five percent (125%) of the poverty level of income for a family or individual of that size, as designated by the Community Services Administration of the United States government.*";

On page 24, line 4, after "*purchaser*" insert "*, except as provided in subsection (3) of Section 8 of this Act,*"; and

On page 24, between lines 9 and 10, insert the following:

"*(3) Providers shall notify customers of the exemption provided under subsection (3) of Section 8 of this Act. Providers providing utility services to residential units shall provide an annual application for the exemption. The application shall be made annually and the provider shall make a determination of those families or individuals residing in residential units that qualify for the exemption.*".

Floor Amendment No. 13 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 52, line 13, after "138.480" by inserting "*; and*

(d) The sale of lottery tickets by the Kentucky Lottery Corporation."; and

On page 68, between lines 10 and 11, insert the following:

"SECTION 46. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and shall disregard household income to the extent that families who otherwise qualify, and who have income at or below one hundred fifty percent (150%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, shall be eligible for Medicaid coverage.

(2) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 1 to **HB 910**, by Representative Webb:

On page 1, line 3, by placing "*(1)*" before the word "*The*"; and

On page 1, following line 4, by adding the following:

"*(2) The "Haydon House" is designated the official Kentucky residence for transient Kentucky legislators visiting the Kentucky Bourbon Festival.*"

Floor Amendment No. 1 to **SB 113**, by Representative Nunn:

On Page 1, at the end of the first WHEREAS clause after the word "class;" by inserting the following, "and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Cave City, in Barren County, is such as to justify its being classified as a city of the fourth class;"

On Page 1, following Line 2 by inserting the following,

"Section 2. The City of Cave City, in Barren County, is transferred from the fifth to the fourth class of cities."

Floor Amendment No. 2 Title to **SB 113**, by Representative Nunn:

By amending the title to read as follows: "AN ACT relating to the classification of cities."

Floor Amendment No. 1 to **HB 992**, by Representative Cave:

By deleting all language in Sections 1, 2 and 3, beginning on page 1, at line 1, and ending on page 18, at line 26;

On page 18, line 27, by deleting "Section 4." and inserting in lieu thereof "Section 1.";

By deleting all language in Sections 5 and 6, beginning on page 20, at line 8, and ending on page 22, at line 21;

On page 22, line by deleting "Section 7." and inserting in lieu thereof "Section 2.";

On page 24, line 15, by deleting "Section 8." and inserting "Section 3.";

By deleting all language in Sections 9, 10, and 11, beginning on page 32, at line 7, and ending on page 40, at line 11;

On page 40, line 12, by deleting "Section 12." and inserting in lieu thereof "Section 4.";

On page 41, line 19, by deleting "***the type of***";

On page 42, lines 5 and 6, by deleting "***does not return to work at the same or greater wage***", and inserting "***returns to work at wages less***" in lieu thereof;

By deleting all language in Sections 13 and 14, beginning on page 47, at line 5, and ending on page 54, at line 21.

Floor Amendment No. 2 to the Committee Substitute to **HB 992**, by Representative Cave:

Beginning on page 1, line 1 through page 18, line 27 by deleting Sections 1, 2 and 3 in their entirety; and

On page 19, line 1, by renumbering "Section 4" as "Section 1"; and

Beginning on page 20, line 9 through page 22, line 22 by deleting Sections 5 and 6 in their entirety, and

On page 22, line 23, by renumbering "Section 7" as "Section 2"; and

On page 24, line 16, by renumbering "Section 8" as "Section 3"; and

Beginning on page 32, line 8 through page 40, line 12 by deleting Sections 9, 10, and 11 in their entirety; and

On page 40, line 13, by renumbering "Section 12" as "Section 4"; and

On page 41, line 20, by deleting the words "***the type of***"; and

On page 42, lines 6 and 7, by deleting the words "***does not return to work at the same or greater wage***" and inserting in its place "***returns to work at wages less***"; and

Beginning on page 47, line 6 through page 58, line 11, by deleting Sections 13, 14, and 15 in their entirety.

Floor Amendment No. 4 to the Committee Substitute to **HB 992**, by Representative Nunn:

On page 58, lines 2 through 11, by deleting Section 15 in its entirety.

Floor Amendment No. 1 to the House Committee Substitute to **SB 149**, by Representative J. Adams:

On Page 2, after line 8, by inserting the following new section,

"SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 45A.695 or any other statute to the contrary, memoranda of agreement, memoranda of understanding, grant agreements, or any other similar documents funded solely with federal funds passed through a state agency shall be exempt from routine review by the Government Contract Review Committee, and shall be filed with the committee not more than thirty (30) days after the effective date of the document for informational purposes only.

(2) The Government Contract Review Committee shall examine all memoranda of agreement, memoranda of understanding, grant agreements, or any other similar documents funded solely with federal funds passed through a state agency and filed with the committee more than thirty (30) days after the effective date of the document.

(3) The Government Contract Review Committee may periodically examine memoranda of agreement, memoranda of understanding, grant agreements, or any similar documents funded solely with federal funds passes through a state agency and may request agency participation in discussions relative to their agreements or payments."; and

On Page 2, lines 9 and 19; and

On Page 4, line 15; and

On Page 7, line 14; and

On Page 10, line 13, by renumbering these sections as Sections 4 thru 8.

Floor Amendment No. 3 to the Committee Substitute to **HB 992**, by Representative Nunn:

On page 41, by deleting lines 5 through 12 in their entirety and by inserting the following in lieu thereof:

"0 to 5%	*0.50*~~[0.75]~~
6 to 10%	*0.65*~~[1.00]~~
11 to 15%	*0.85*~~[1.25]~~
16 to 20%	*1.00*~~[1.50]~~
21 to 25%	*1.15*~~[1.75]~~
26 to 30%	*1.35*~~[2.00]~~
31 to 35%	*1.50*~~[2.25]~~
36% and above	*1.70*~~[2.50]~~".

Floor Amendment No. 1 to the House Committee Substitute to **SB 77**, by Representative Marzian:

On page 3, line 4, after "*methods*" by deleting "*, to effectively impart mathematics content knowledge to all students*" and inserting in lieu thereof "*that support the mathematics learning needs of all male and female students*".

Floor Amendment No. 14 to the Committee Substitute to **HB 996**, by Representative Moberly:

On page 24, line 1, before the period "*.*" by inserting "*and included in total charges for communication services. The provider shall give the purchaser a receipt for total charges collected. The provider shall maintain records which account for tax collected separately from other charges collected*" and by deleting the remainder of the line in its entirety; and

On page 24, by deleting lines 2 and 3 in their entirety; and

On page 24, by deleting line 7, in its entirety, and inserting the following in lieu thereof:

"*purchaser has paid the total charges, including the tax, is*"; and

On page 62, line 10, after "*Act,*" by bracketing and striking through "*that is regulated as to rate by the Kentucky Public Service Commission,*"; and

On page 62, line 13, by deleting "*This is meant to be a one-*"; and

On page 62, by deleting line 14 in its entirety.

Floor Amendment No. 5 to the Committee Substitute to **HB 437**, by Representative Miller:

On page 15, line 13, after "*January 15, 2001,*", by deleting the remaining language on that line, all language on line 14, and all language through and including "*to*" on line 15 and inserting in lieu thereof "*every middle school principal shall*";

On page 15, line 17, by replacing the first "*a*" with "*the*";

On page 15, line 17, after "*school*" by inserting "*he or she administers*";

On page 15, lines 21 to 22, by deleting "*, as described in paragraph (b) of this subsection*" and inserting "*. The results of this determination through the use of the evaluation procedure set forth in Section 2 of this Act shall be reported to the Education Professional Standards Board*"; and

On page 15, line 23 after "*(b)*" by deleting the new language through the end of line 25 and inserting in lieu thereof "*Through the evaluation appeal procedure, any teacher determined by the principal not to be adequately prepared in the subject matter and the teaching methodologies appropriate to each content area for which he or she is assigned may appeal*

that determination and may use any of a variety of options to establish preparedness including:".

Floor Amendment No. 1 to the Committee Substitute to **HB 248**, by Representative Heleringer:

On, page 3, after line 24, by inserting the following:

"Section 2. Whereas the implementation of this provision should correspond with the planning for the new fiscal year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 7 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 22, line 13, by deleting "***fifteen***" and inserting ***twenty***" in its place; and

On page 22, line 14, by deleting "***percent (15%)***" and inserting "***percent (20%)***" in its place; and

On page 22, line 21, by deleting "***five thousand dollars ($5,000)***" and inserting "***ten thousand dollars ($10,000)***" in its place.

Floor Amendment No. 8 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 58, beginning on line 2 through line 11, by deleting Section 15 in its entirety.

Floor Amendment No. 5 to the Committee Substitute to **HB 992**, by Representative Cave:

On page 1, line 1, by deleting Sections 1 through 3 in their entirety, beginning with "Section 1." on page 1, line 1, and ending with "as well." on page 18, line 27.

On page 19, line 1, by renumbering "Section 4." as "Section 1."

On page 20, line 9, by deleting Section 5 and 6 in their entirety, beginning with "Section 5." on page 20, line 9 and ending with "***342.310.***" on page 22, line 22.

On page 22, line 23, by renumbering "Section 7." as "Section 2."

On page 24, line 16, by deleting Section 8 in its entirety, beginning with "Section 8." on page 24, line 16, and ending with "Commonwealth.", on page 32, line 7.

On page 32, line 8, by renumbering "Section 9." as "Section 3."

On page 36, line 5, by deleting Sections 10 and 11 in their entirety, beginning with "Section 10." on page 36, line 5, and ending with "chapter." on page 40, line 12.

On page, 40, line 13, by renumbering "Section 12." as "Section 4."

On page 41, line 5, by deleting "***0 to 15%***" and the brackets around and strikethroughs through "0 to 5%"

On page 41, line 5, by deleting "***1.00***" and inserting "***0.50***" in lieu thereof.

On page 41, line 6 by deleting "***16 to 25%***", the brackets around and strikethroughs through "6 to 10%" and by deleting "1.15" and inserting "***0.65***"

On page 41, line 7, by deleting "***26 to 30%***", the brackets around and strikethroughs through "11 to 15%", and by deleting "***1.35***" and by inserting "***0.85***"

On page 41, line 8, by deleting "***31 to 35%***", the brackets around and strikethroughs through "16 to 20%", and by deleting "***1.50***" and by inserting "***1.00***"

On page 41, line 9, by deleting "***36% and above***", the brackets around and strikethroughs through "21 to 25%", and by deleting "***1.70***" and inserting "***1.15***"

On page 41, lines 10 through 12 by deleting the brackets around and strikethroughs through all the language.

On page 41, line 10 by inserting "***1.35***" before "2.00" and by bracketing and striking through "2.00".

On page 41, line 11, by inserting "***1.50***" before "2.25", and by bracketing and striking through "2.25"

On page 41, line 12, by inserting "***1.70***" before "2.50", and by bracketing and striking through "2.50".

On page 41, lines 16 and 17, by deleting the language beginning with "***, except***" and ending with "***Act***", and by deleting the brackets around and strikethroughs through the words "to the contrary"

On page 41, line 20, by deleting the words "***the type of***"

On page 42, lines 6 and 7, by deleting the words "***does not return to work at the same or greater wage***" and inserting "***returns to work at wages less***" in lieu thereof.

On page 46, lines 2 and 3 by deleting the words "***be reduced by twenty-five percent (25%)***" and deleting the brackets around and strikethroughs through the word "terminate".

On page 46, lines 5 through 10 by deleting the language beginning with "***; by***" and ending with "***period of***", and by deleting the brackets around and strikethroughs through ", or".

On page 46, lines 11 through 14, by deleting the language beginning with "***and thereafter***" and ending with "***third year***", and by deleting the brackets around and strikethroughs through the words "whichever last occurs"

On page 47, line 6, delete Sections 13 through 15 in their entirety, beginning with "Section 13." on page 47, line 6, and ending with "***classifications.***" on page 58, line 11.

Floor Amendment No. 6 to **HB 992**, by Representative Cave:

On page 1, line 1, by deleting all the language in Sections 1 through 3 in their entirety, beginning with "Section 1." on page 1, line 1, and ending with "as well." on page 18, line 26.

On page 18, line 27, renumber "Section 4" as "Section 1"

On page 20, line 8, by deleting all the language in Sections 5 and 6 in their entirety, beginning with "Section 5." on page 20, line 8, and ending with "***342.310.***" on page 22, line 21.

On page 22, line 22, renumber "Section 7." as "Section 2.".

On page 24, line 15, by deleting all the language in Section 8 in its entirety, beginning with "Section 8." on page 24, line 15, and ending with "Commonwealth." on page 32, line 6.

On page 32, line 7, renumber "Section 9." as "Section 3."

On page 36, line 4, by deleting all the language in Sections 10 and 11 in their entirety, beginning with "Section 10." on page 36, line 4 and ending with "chapter." on page 40, line 11.

On page 40, line 12, renumber "Section 12." as "Section 4."

On page 41, lines 15 and 16, by deleting the language beginning with "***, except***" and ending with "***Act***", and deleting the brackets around and strikethroughs through the words "to the contrary".

On page 41, line 19, by deleting the words "***the type of***".

On page 42, lines 5 and 6 by deleting the words "***does not return to work at the same or greater wage***" and inserting "***returns to work at wages less***" in lieu thereof.

On page 46, lines 1 and 2 by deleting the words "***be reduced by twenty-five percent (25%)***" and by deleting the brackets around and strikethroughs through the word "terminate"

On page 46, lines 4 through 9, by deleting the language beginning with "***; by***" and ending with "***period of***", and by deleting the brackets around and strikethroughs through ", or"

On page 46, lines 10 through 13, by deleting the language beginning with the words "***and thereafter***" and ending with the words "***third year***", and by deleting the brackets around and strikethroughs through the words "whichever last occurs"

On page 47, line 5 by deleting Sections 13 and 14 in their entirety, beginning with "Section 13." on page 47, line 5, and ending with "***classifications.***" on page 54, line 21.

Floor Amendment No. 1 to the Committee Substitute to **HB 763**, by Representative Alexander:

On page 14, between lines 22 and 23 by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

No career employee shall be required to obtain a high school diploma, equivalency certificate, or a passing score on the General Educational Development (GED) test to be eligible for a reclassification into a higher pay grade."; and

On page 14, line 23 by renumbering "Section 4" as "Section 5".

Floor Amendment No. 2 to the Committee Substitute to **HB 366**, by Representative Wilkey:

On page 13, line 21, by bracketing and striking through the phrase, "189A.060", and

On page 39, between lines 11 and 12, by inserting the following:

"Section 26. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS ~~[189A.060,]~~189A.070 ***or***~~[,]~~ and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.", and to renumber subsequent sections accordingly.

Floor Amendment No. 9 to the Committee Substitute to **HB 992**, by Representative D. Butler:

On page 22, after line 22, by inserting the following:

"***(4) Notwithstanding subsections (1), (2), and (3) of this section, the remedies under KRS 446.070 shall be available to***

the employee for any violation of KRS 304.12-230."

Floor Amendment No. 10 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 46, after line 1, by inserting the following:

"(4) All income benefits payable pursuant to this chapter shall ***be reduced by ten percent (10%) annually beginning*** ~~[terminate]~~ as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, ***and by ten percent (10%) each year thereafter until the income benefits have been reduced by not more than fifty percent (50%). The reduction that occurs initially shall be against the awarded amount of income benefits, and thereafter, the annual reduction shall be made against the remaining benefit amount*** ~~[or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits]~~."; and

On page 46, beginning on line 2 and ending on line 19, by deleting subsection (4) in its entirety.

Floor Amendment No. 11 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 12, line 3, by bracketing and striking through "arbitrator or "; and

On page 16, line 6, by bracketing and striking through "arbitrator's or "; and

On page 16, line 7, by bracketing and striking through "arbitrator or "; and

On page 16, line 20, by deleting "***12***" and inserting "***13***" in its place; and

On page 17, line 2, by bracketing and striking through "arbitrator or "; and

On page 17, line 4, by bracketing and striking through "arbitrator or "; and

On page 17, line 10, by bracketing and striking through "arbitrator or "; and

On page 17, line 16, by bracketing and striking through "arbitrator or "; and

On page 18, line 10, by bracketing and striking through "arbitrator or "; and

On page 18, line 14, by bracketing and striking through "arbitrator or the "; and

On page 20, line 2, by bracketing and striking through ", arbitrators, "; and

On page 20, line 13, by bracketing and striking through "arbitrator or "; and

On page 20, line 21, by bracketing and striking through "arbitrator or "; and

On page 21, line 17 by bracketing and striking through "or arbitrator, "; and

On page 22, beginning on line 23 through line 15 on page 24, by deleting Section 7 in its entirety; and

On page 22 after line 22, by inserting the following sections and by renumbering the remaining sections accordingly:

"Section 7. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all ***known*** accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an ***administrative law judge***~~[arbitrator for benefit review]~~. The ***administrative law judge***~~[arbitrator]~~ shall facilitate the exchange of information pertinent to the claim***, benefit settlement conference, and hearings*** pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

~~[(3) (a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.~~

~~(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an~~

~~administrative law judge for further proceedings.~~]

[~~(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.~~]

[~~(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.~~]

[~~(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.~~]

[~~(7) Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.~~]

Section 8. KRS 342.275 is amended to read as follows:

(1)[~~ Within thirty (30) days after the filing of the benefit review determination with the commissioner, any party may appeal that determination by filing a request for hearing before an administrative law judge. Proceedings before the administrative law judge shall be de novo but subject to penalties for unreasonable proceedings under KRS 342.310.~~]

[~~(2)~~] The commissioner shall promptly issue notice of the assignment of the claim to an administrative law judge, time for presentation of proof and of the time and place of ***a benefit settlement conference and*** a hearing. The ***benefit settlement conference shall be conducted by telephone or the administrative law judge may order the parties to appear. If settlement is not reached at the benefit settlement conference, the administrative law judge shall enter an order scheduling time for presentation of proof on medical and other unresolved issues, and set the matter for hearing***[~~administrative law judge may confer informally with the parties for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case~~].

(2)[~~(3)~~]The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the commissioner. The administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless extension is mutually agreed to by all parties. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute."; and

On page 32, line 10, by bracketing and striking through "or arbitrator"; and

On page 33, line 5, by placing an opening bracket before "of" and by striking through "of an", and on line 6, by striking through and placing a closing bracket after "arbitrator"; and

On page 33, lines 22 through 23, by bracketing and striking through "or arbitrator"; and

On page 34, line 3, by bracketing and striking through "arbitrator or "; and

On page 34, line 12, by bracketing and striking through "arbitrator or "; and

On page 35, line 3, by bracketing and striking through "and arbitrator "; and

On page 35, line 7, by bracketing and striking through "arbitrator or "; and

On page 35, line 9, by bracketing and striking through "arbitrator or "; and

On page 35, line 16, by bracketing and striking through "or arbitrator"; and

On page 36, line 20, by bracketing and striking through "arbitrator or "; and

On page 36, line 21, by bracketing and striking through "arbitrator or "; and

On page 36, line 26, by bracketing and striking through "arbitrator or ";and

On page 37, line 5, by bracketing and striking through "arbitrator or "; and

On page 37, line 9, by deleting "***11***" and inserting "***12***" in its place; and

On page 37, line 14, by bracketing and striking through "arbitrator or "; and

On page 37, line 23, by bracketing and striking through "arbitrator or "; and

On page 39, line 6, by bracketing and striking through "arbitrator or "; and

On page 52, line 9, by bracketing and striking through "or arbitrator "; and

On page 52, line 11, by bracketing and striking through "or arbitrator "; and

On page 58, after line 11, by inserting the following:

"Section 16. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by ***a***~~[an arbitrator,]~~ court~~[,]~~ or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Department for Employment Services, Cabinet for Workforce Development prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 17. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.

(7) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge ~~[or arbitrator]~~by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge ~~[or arbitrator]~~may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, ~~[arbitrator,]~~or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 18. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than two (2) physicians without prior consent from the ~~[arbitrator or]~~administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. The report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of the report and to cross-examine the reporting physician. The commissioner shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 19. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless

disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid, except that if the ~~[arbitrator or]~~administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the ~~[arbitrator or]~~administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the ~~[arbitrator or]~~administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 20. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the ~~[arbitrator or]~~administrative law judge shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the ~~[arbitrator or]~~administrative law judge directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 21. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.

(3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge~~[or arbitrator]~~. This provision is remedial and shall apply to all pending and future claims.

Section 22. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to one (1) or more dependents of the deceased employee for the benefit of all the dependents entitled thereto, as determined by the ~~[arbitrator or]~~administrative law judge. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.

(2) If the dependents are a widow, widower, or other head of a family of minor children and one (1) or more minor children, it shall be sufficient for the widow, widower, or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator, or next friend of such dependents.

Section 23. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the ~~[arbitrator or~~

~~]~~administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly-qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly-qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required by this subsection, shall be the same as, and in accordance with, state travel administrative regulations and standards promulgated and established pursuant to KRS Chapter 45.

(3) If an employee refuses to submit himself to or in any way obstructs the examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the ~~[arbitrator or]~~administrative law judge may require.

(5) The department shall supply forms for the report.

Section 24. KRS 342.213 is amended to read as follows:

(1) The Governor shall make all appointments to the board, appoint the administrative law judges~~[, arbitrators,]~~ and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.

(2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.

(4) The commissioner shall monitor the workload of the administrative law judges and ~~[arbitrators and]~~, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges ~~[and arbitrators]~~, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.

(5) (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of administrative law judges~~[and arbitrators]~~. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge ~~[or arbitrator,]~~or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its

recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge ~~[or arbitrator]~~shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge~~[and as an arbitrator]~~.

(b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.

(6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars ($100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 25. KRS 342.230 is amended to read as follows:

(1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, ~~[arbitrators,]~~administrative law judges, and board members, shall be members of the classified service.

(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges ~~[and arbitrators]~~on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges~~[, arbitrators,]~~ and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board~~[,]~~ ***and*** the administrative law judges~~[, and arbitrators]~~; annually report the activities of the board~~[,]~~ ***and the*** administrative law judges~~[, and arbitrators]~~ to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not less than the salary of a member of the board.

(3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.~~[To carry out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.]~~

(4) To ensure that the administrative law judges ~~[and arbitrators]~~perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear,

correct, and concise opinions, orders, or awards.

(5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge[~~ or arbitrator~~]. A member of the board or an administrative law judge [~~or an arbitrator~~]may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge[~~, an arbitrator,~~] or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

(6) Any vacancy in the term of an administrative law judge [~~or an arbitrator,~~]which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars ($3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

[~~(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.~~

~~(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars ($2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.~~

~~(11) (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~

~~(b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~]

Section 26. KRS 342.240 is amended to read as follows:

The department shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The commissioner shall provide necessary supplies, books, periodicals, and maps and shall provide a seal for the authentication of orders, awards, or proceedings of the [~~arbitrators and~~]administrative law judges, on which shall be inserted the words "Department of Workers' Claims, State of Kentucky, official seal." The board[~~, the arbitrators,~~] and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the commissioner, all actions or proceedings against the board or a member in his official capacity, or against an [~~arbitrator or~~]administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 27. KRS 342.245 is amended to read as follows:

All proceedings of the board[~~, arbitrators,~~] and the administrative law judges shall be recorded in books kept for that purpose by the commissioner, which shall constitute a public record and shall contain an entry of each case, claim, or proceeding considered, heard or passed upon by each [~~arbitrator,~~]administrative law judge[~~,~~] and the board, with the award, finding or decisions made thereon.

Section 28. KRS 342.260 is amended to read as follows:

(1) The commissioner shall prepare administrative regulations as he considers necessary to carry on the work of the department and the work of the [~~arbitrators and~~]administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) The commissioner shall develop or adopt life expectancy tables for use in making computations for the apportionment of benefits under KRS 342.120, computation of attorneys' fees under KRS 342.320, and for use in all other situations arising under this chapter in which the calculation of a life expectancy is necessary or desirable, including the computation of assessments or reserves for self-insurers. The commissioner may adopt life tables published by the United States Department of Health and Human Services or other life tables developed by a qualified entity, as determined by the commissioner. The life tables designated by the commissioner through administrative regulation in effect as of the date of an opinion, award, or settlement approved by an [~~arbitrator or~~]administrative law judge shall apply to computations concerning that opinion, award, or settlement.

(3) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any [~~arbitrator or~~]administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined those parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(4) The sheriff shall serve all subpoenas of the board[~~, arbitrators,~~] and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to the subpoena of the board or any [~~arbitrator or~~] administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(5) The Circuit Court shall, on application of the board, any member thereof, or any [~~arbitrator or~~]administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 29. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order, or decision any party may file a petition for reconsideration of the award, order, or decision of the [~~arbitrator or~~]administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in the review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make any correction within ten (10) days after submission.

Section 30. KRS 342.305 is amended to read as follows:

Any party in interest may file in the Circuit Court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the [~~arbitrator or~~]administrative law judge, or of an order or decision of the [~~arbitrator,~~]administrative law judge[~~,~~] or board, or of an award of the [~~arbitrator or~~]administrative law judge unappealed from, or of an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals, shall be modified to conform to any decision of the [~~arbitrator or~~]administrative law judge ending, diminishing, or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 31. KRS 342.310 is amended to read as follows:

(1) If any [~~arbitrator,~~]administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted, or defended them.

(2) If any [~~arbitrator,~~]administrative law judge, the board, or any court before whom any proceedings are brought under this

chapter determines that a party has committed acts in violation of KRS 342.335(1) or (2), that party may be ordered to make restitution for any compensation paid as a result of the commission of such acts.

Section 32. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by ~~[arbitrators and]~~administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When ~~[arbitrators or]~~administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner~~[, an arbitrator,]~~ or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 33. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the ~~[arbitrator or]~~administrative law judge, shall be determined by the ~~[arbitrator or]~~administrative law judge except as otherwise provided in this chapter.

Section 34. KRS 342.435 is amended to read as follows:

Annually on or before the fifteenth day of December, the commissioner shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each ~~[arbitrator and]~~administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the commissioner deems proper to call to the attention of the Governor, including any recommendations he may have to make, and it shall be the duty of the commissioner to publish and distribute among employers and employees any general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to the provisions of the general laws governing public printing applicable thereto.

Section 35. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against the other person to recover damages, or proceed both against the employer for compensation and the other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against the other person to recover damages, he shall give due and timely notice to the employer and the special fund of the filing of the action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in

the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays the compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall the claim be barred by limitations, if the claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an ~~[arbitrator or]~~administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

Section 36. KRS 342.735 is amended to read as follows:

(1) The commissioner shall promulgate administrative regulations to expedite the payment of temporary total disability and medical expense benefits.

(2) The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(3) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an ~~[arbitrator or]~~administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the ~~[arbitrator or]~~administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 37. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the Labor Cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the Labor Cabinet shall be the custodian of the fund, and all moneys and securities in the fund shall be held in trust by the secretary of the Labor Cabinet and shall not be considered a part of the general funds of the state.

(2) The secretary of the Labor Cabinet is authorized to disburse moneys from the fund only upon written order of the ~~[arbitrator,]~~administrative law judge~~[,]~~ or the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.

(4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of all the amounts authorized to be paid therefrom under the authority of this subsection including reimbursement of the special fund of all liability apportioned to it and for the purposes of enforcing this liability the Labor Cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund. This provision shall apply to all pending claims upon which a final order has not been entered.

(5) In furtherance of this purpose, the Attorney General shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The Labor Cabinet shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the State Treasury shall be transferred to the uninsured employers' fund created within the Labor Cabinet pursuant to this section.

Section 38. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the ~~[arbitrator or]~~administrative law judge shall, upon his own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 39. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer; and

(2) Has not made a deposit of security, indemnity, or bond acceptable to the commissioner to secure the payment of compensation liability; and

(3) Has failed to make payment of compensation according to the terms of that award,

the award shall constitute a liquidated claim for damages against that employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the commissioner, and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against that employer in the name of the uninsured employers' fund for the collection of that award. In that action, it shall be sufficient for plaintiff to set forth a copy of the award of the ~~[arbitrator or]~~administrative law judge relative to the claim as certified by the commissioner and to state that there is due to plaintiff on account of the opinion, order, or award of the ~~[arbitrator or]~~administrative law judge a specified sum which plaintiff claims with interest. A certified copy of the award in the claim shall be attached to the complaint and shall constitute prima facie evidence of the truth of the facts therein contained.

Section 40. KRS 342.990 is amended to read as follows:

(1) The commissioner shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) to (7) of this section, or criminal penalties pursuant to subsections (8) and (9) of this section, or both.

(3) The commissioner shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the commissioner to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.

(6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.

(7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

  (a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

  (b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

  (c) Any person who violates KRS 342.020(9), 342.035(2), KRS 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the commissioner of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the commissioner within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the department pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice.

(d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense.

(e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the commissioner pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation.

(f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars ($300) shall be fined per occurrence not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars ($300) shall be fined per occurrence not more than five thousand dollars ($5,000) per individual nor ten thousand dollars ($10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each violation.

(i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) per occurrence, or both.

(j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.

(8) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense.

(d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.

(10) Fines paid pursuant to subsections (7) and (9) of this section shall be paid into the special fund.

(11) In addition to the penalties provided in this section, the commissioner and any ~~[arbitrator,]~~administrative law judge, or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

Section 40. KRS 342.0015 is amended to read as follows:

The substantive provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to any claim arising from an injury or last exposure to the hazards of an occupational disease occurring on or after December 12, 1996. Procedural provisions of 1996 (1st

Extra. Sess.) Ky. Acts ch. 1 shall apply to all claims irrespective of the date of injury or last exposure, including, but not exclusively, the mechanisms by which claims are decided and workers are referred for medical evaluations. The provisions of KRS 342.120(3), 342.125(8), 342.213(2)(e), 342.265, ~~[342.270(7),]~~ 342.320, 342.610(3), 342.760(4), and 342.990(11) are remedial.".

Floor Amendment No. 12 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 24, after line 15, by inserting the following section and by renumbering the remaining sections accordingly

"Section 8. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools~~,~~ ***, and the Pikeville School of Osteopathic Medicine,*** to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 13 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 18, after line 27, by inserting the following section and by renumbering the remaining sections accordingly

"Section 4. KRS 342.165 is amended to read as follows:

(1) If an accident***, with injury,*** is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder, communicated to the employer and relative to installation or maintenance of safety appliances or methods, ***or the intentional removal of a safety device from machinery, then the injured employee shall have a cause of action at law against the employer as if this chapter had not been passed, for the damage so sustained by the employee, his dependents, or personal representatives as is recoverable by law. Any award or benefit recovered as a result of bringing suit against the employer shall accrue to the employee or his dependents in addition to any benefits awarded under this chapter***~~[the compensation for which the employer would otherwise have been liable under this chapter shall be increased fifteen percent (15%) in the amount of each payment]~~. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable order or administrative regulation of the commissioner or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) The employee has knowingly and willfully made a false representation as to his physical condition or medical history;

(b) The employer has relied upon the false representation, and this reliance was a substantial factor in the hiring; and

(c) There is a causal connection between the false representation and the injury for which compensation has been claimed."

On page 36, after line 4, by inserting the following section and by renumbering the remaining sections accordingly

Section 11. KRS 342.610 is amended to read as follows:

(1) Every employer subject to this chapter shall be liable for compensation for injury, occupational disease, or death without regard to fault as a cause of the injury, occupational disease, or death.

(2) A contractor who subcontracts all or any part of a contract and his carrier shall be liable for the payment of compensation to the employees of the subcontractor unless the subcontractor primarily liable for the payment of such compensation has secured the payment of compensation as provided for in this chapter. Any contractor or his carrier who shall become liable for such compensation may recover the amount of such compensation paid and necessary expenses from the subcontractor primarily liable therefor. A person who contracts with another:

(a) To have work performed consisting of the removal, excavation, or drilling of soil, rock~~,~~ or mineral, or the cutting or removal of timber from land; or

(b) To have work performed of a kind which is a regular or recurrent part of the work of the trade, business, occupation, or profession of such person

shall for the purposes of this section be deemed a contractor, and such other person a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

(3) Liability for compensation shall not apply where injury, occupational disease, or death to the employee was proximately caused primarily by voluntary intoxication as defined in KRS 501.010, or by his willful intention to injure or kill himself or another.

(4) [~~If injury or death results to an employee through the deliberate intention of his employer to produce such injury or death, the employee or his dependent as herein defined shall receive the amount provided in this chapter in a lump sum to be used, if desired, to prosecute the employer. The dependents may bring suit against the employer for any amount they desire.~~] If injury or death ***is caused in any degree to an employee by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder, communicated to the employer and relative to installation or maintenance of safety appliances or methods, or the intentional removal of a safety device from machinery then***[~~results to an employee through the deliberate intention of his employer to produce such injury or death~~], the ***injured*** employee or his dependents may take under this chapter, ***and***[~~or in lieu thereof,~~] have a cause of action at law against the employer as if this chapter had not been passed, for such damage so sustained by the employee, his dependents, or personal representatives as is recoverable at law. ***Any award or benefit recovered by the employee or his dependents as a result of bringing suit against the employer, shall be in addition to any benefits awarded under this chapter***[~~If a suit is brought under this subsection, all right to compensation under this chapter shall thereby be waived as to all persons. If a claim is made for the payment of compensation or any other benefit provided by this chapter, all rights to sue the employer for damages on account of such injury or death shall be waived as to all persons~~].

(5) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local building official shall require proof of workers' compensation coverage from the builder before a permit is issued. A person who is exempt under the exception contained in KRS 342.650(2), and any contractor otherwise exempt from this chapter, shall so certify to the local building official, in writing and on a form prescribed by the commissioner, in lieu of providing proof of workers' compensation coverage.

(6) Every employer subject to this chapter, at its principal office and such other locations where employees customarily report for payroll and personnel matters, shall post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, the employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the commissioner so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. The format and contents of the notice shall be established by the commissioner through administrative regulation, and copies shall be provided to the employer by its insurance carrier.

Floor Amendment No. 14 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 54, after line 21, by inserting the following section:

"Section 16. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for

evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. ~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 15 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 52, after line 1, after "(2)" by inserting the following:

No claim for income benefits under this section shall be denied solely on the basis of the results of a chest x-ray.

(3)"; and

On page 52 at the beginning of line 8 by inserting *"(4)"*; and

On page 52 at the beginning of line 20 by inserting *"(5)"*; and

On page 52, line 8 by bracketing and striking through "(3)"; and

On page 52, line 20 by bracketing and striking through "(4)"; and

On page 52, line 25, by deleting "*(5)*" and inserting *(6)* in lieu thereof; and

On page 53, line 9, by deleting "*(6)*" and inserting "*(7)*" in its place; and on line 11, by deleting "*(7)*" and inserting "*(8)*" in its place; and on line 25, by deleting "*(8)*" and inserting "*(9)*" in its place; and

On page 54, line 4, by deleting "*(9)*" and inserting "*(10)*"in its place".

Floor Amendment No. 16 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 58, after line 11, by adding the following section:

"Section 16. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence. ***Notwithstanding the provisions of this subsection, medical evidence from medical providers, other than the medical schools, that consists of x-rays that conform to the standards required in this chapter and interpretations of those x-rays by certified "B" readers or certified radiologists, shall be afforded presumptive weight by***

arbitrators and administrative law judges, and the burden to overcome this evidence shall be on the opponent of that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 17 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 16, line 23, by deleting "***six (6)***" and inserting in lieu thereof "***eight (8)***".

Floor Amendment No. 18 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 16, line 19, by deleting the underlined language; and

On page 40, beginning on line 13 and ending on page 47, line 5, by deleting Section 12 in its entirety; and

On page 40, after line 12, by inserting the following section:

"Section 12. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, ***where an employee returns to work at a wage equal to or greater than the employee's pre-injury wage,*** sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, ***unless the employee establishes a greater percentage of disability as determined under Section 1 of this Act, in which event the benefits shall not exceed two (2)*** times the ***permanent impairment rating, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks subject to the provisions of paragraph (d) of this subsection. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph.*** ~~[factor set forth in the table that follows:~~

~~AMA Impairment~~	~~Factor~~
~~0 to 5%~~	~~0.75~~
~~6 to 10%~~	~~1.00~~
~~11 to 15%~~	~~1.25~~
~~16 to 20%~~	~~1.50~~
~~21 to 25%~~	~~1.75~~
~~26 to 30%~~	~~2.00~~

~~31 to 35% 2.25~~
~~36% and above 2.50]~~

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) ***For permanent partial disability, except all cases described in paragraph (b) of this subsection, sixty-six and two-thirds percent (66-2/3 %) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or under Section 1 of this Act, whichever is greater, for a maximum period from the date the disability arises, of four hundred twenty-five (425) weeks, subject, however, to the provisions of paragraph (d) of this subsection. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. Any temporary total disability period within the maximum period of permanent, partial disability benefits shall extend the maximum period of disability but shall not make a weekly benefit exceeding that determined in paragraph (a) of this subsection. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of disability.***

~~[1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.~~

~~2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.~~

~~3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.]~~

(d) For permanent partial disability, if an employee has a permanent ***impairment or*** disability rating ***greater than*** ~~[of]~~ fifty percent (50%) ~~[or less]~~ as a result of a work-related injury ***or occupational disease***, the compensable permanent partial disability period shall be ~~[four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be]~~ five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage~~[, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage]~~, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks~~[, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability]~~.

(e) ***Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, the age and formal education shall be considered in determining income benefits under this subsection. Nonwork-related impairment or disability and claims under KRS 342.732 shall not be considered in determining whether the employee is impaired or disabled in excess of fifty percent (50%) for purposes of this subsection*** ~~[For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter]~~.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability

compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.".

Floor Amendment No. 3 to **HB 750**, by Representative Barrows:

On page 34, at line 9, after "candidates," by inserting "***independent expenditures committee,***"; and

On page 34, at line 12, after "candidates," by inserting "***independent expenditures committee chairman,***"; and

On page 34, at line 26, after "candidates," by inserting "***independent expenditures committee chairman,***"; and

On page 35, at line 3, after "committee" by inserting "***or an independent expenditures committee***"; and

On page 35, at line 5, after "candidates," by inserting "***independent expenditures committee,***"; and

On page 35, at line 8, after "candidates," by inserting "***independent expenditures committee chairman,***"; and

On page 35, at line 22, after "candidates," by inserting "***independent expenditures committee chairman,***"; and

On page 35, at line 26, after "committee" by inserting "***or an independent expenditures committee***"; and

On page 36, at line 17, after "chairman" by inserting "***or an independent expenditures committee chairman***"; and

On page 39, at line 16, after "committee" by inserting "***or an independent expenditures committee***"; and

On page 39, at line 20, after "candidates," by inserting "***independent expenditures committee,***"; and

On page 40, at line 4, after "committee," by inserting "***independent expenditures committee,***"; and

On page 41, at line 19, after "committees," by inserting "***independent expenditures committees,***"; and

On page 41, at line 22, after "committee," by inserting "***independent expenditures committee,***"; and

On page 42, at line 19, after "committee," by inserting "***or an independent expenditures committee***" and

On page 43, at line 5, after "campaign committees," by inserting "***independent expenditures committees,***"; and

On page 43, at line 7, after "committees," by inserting "***independent expenditures committees,***"; and

On page 43, at line 17, after "campaign committees," by inserting "***independent expenditures committees,***"; and

On page 43, at line 21, after "campaign committees," by inserting "***independent expenditures committees,***"; and

On page 43, at line 26, after "slates of candidates," by inserting "***independent expenditures committees,***"; and

On page 44, at line 1, after "campaign committees," by inserting "***independent expenditures committees,***"; and

On page 45, at line 27, after "committee," by inserting "***independent expenditures committee,***"; and

On page 46, at line 2, after "the" by inserting "***candidate or committee***"; and

On page 46, at line 2, by bracketing and striking through the word "campaign"; and

On page 47, at line 14, after "campaign committee," by inserting "***independent expenditures committee,***".

Floor Amendment No. 2 Title to **HB 248**, by Representative Heleringer:

On page 1, by amending the title to read as follows:

"AN ACT related to hazardous duty retirement and declaring an emergency.".

Floor Amendment No. 6 to the Committee Substitute to **HB 437**, by Representative Stein:

On page 48, lines 9 and 10, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time hiring supplements***";

On page 48, line 17, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time supplement***";

On page 48, line 18, by deleting "***the maximum compensation***" and inserting in lieu thereof "***a supplement***";

On page 48, lines 20 and 21, by deleting "***additional compensation***" and inserting in lieu thereof "***a supplement***"; and

On page 49, line 15, after the period by inserting "***Payments to any teacher under this subsection by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and the payments shall not affect the eligibility of any school district to share in the distributions of funds from the public school funds as established in KRS Chapter 157.***".

Floor Amendment No. 19 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 53, line 15, by deleting the phrase "***upon the existing record***"; and

On line 21, after the "." by deleting "***Claims which were dismissed upon a finding that the***"; and by deleting lines 22, 23, and 24 in their entirety.

Floor Amendment No. 20 to **HB 992**, by Representative Gray:

On page 18, lines 18 through 26, by deleting subsection (8) in its entirety, and after line 17, by inserting the following subsection (8):

"(8) The time limitation prescribed in this section ***is remedial and*** shall apply to all claims ~~[irrespective of when they were incurred, or when the award was entered, or the settlement approved]~~ ***in which an award was entered or a settlement approved on or after December 12, 1996, except that subsection (3) of this section shall not be interpreted or construed to permit reopening of a claim on which the reopening period had expired on or before the effective date of this Act.***~~[However,]~~ Claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well."

Floor Amendment No. 21 to **HB 992**, by Representative Gray:

On page 54, after line 11, by inserting the following:

"Section 14. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) of this section shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the

employee or at the time his disability from an occupational disease began.

(6) In addition to other benefits as provided by this chapter, if death occurs within four (4) years of the date of injury as a direct result of a work-related injury, a lump-sum payment of ***fifty thousand dollars ($50,000)***~~[twenty-five thousand dollars ($25,000)]~~ shall be made to the deceased's estate, from which the cost of burial and cost of transportation of the body to the employee's place of residence shall be paid. ***Annually, the commissioner shall compute, in accordance with KRS 342.740, the increase or decrease in the state average weekly wage, and consistent therewith, shall adjust the amount of the lump sum payment due under this subsection for injuries occurring in the succeeding year.***

(7) All benefits awarded pursuant to this section, other than those provided in subsection (6) of this section, shall be subject to the limitations contained in KRS 342.730(4)."; and renumbering the remaining section accordingly.

Floor Amendment No. 22 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 58, after line 11, by inserting the following section and by renumbering the remaining sections accordingly:

"Section 16. KRS 342.7305 is amended to read as follows:

(1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the latest available edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment."

(2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than ***five percent (5%)***~~[eight percent (8%)]~~. No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.

(3) The commissioner shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.

(4) When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise shall be exclusively liable for benefits.".

Floor Amendment No. 23 to the Committee Substitute to **HB 992**, by Representative J. Turner:

On page 27, line 24, by bracketing and striking through "shall" and by inserting before it "***may, subject to subsection (1) of Section 17 of this Act,***"; and

On page 58, after line 11, by inserting the following sections:

"Section 16. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an arbitrator for benefit review. The arbitrator shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) (a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation ***subject to subsection (1) of Section 17 of this Act***.

(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.

(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the

claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.

(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.

(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(7) Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

Section 17. KRS 342.315 is amended to read as follows:

(1) The commissioner ***may***~~[shall]~~ contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools ***only when***~~[whenever]~~ a ***complicated or unusual*** medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. ~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 18. KRS 342.7305 is amended to read as follows:

(1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the latest available edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment."

(2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than eight percent (8%). No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.

(3)~~[The commissioner shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.~~

~~(4)]~~ When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise shall be exclusively liable for benefits.".

Floor Amendment No. 1 to the Committee Substitute to **HB 566**, by Representative Gray:

On page 22, line 10, after "renew," and before "refuse" by placing brackets and strike through around the "or";

On page 23, line 1 after the semicolon by placing brackets and strike through around "and";

On page 23, line 5 after "board" and before the period by inserting the following:

"*; and*

(v) Develop an individual profile of each physician holding a license under KRS 311.530 to 311.620 that is in accordance with Section 20 of this Act";

On page 26, after line 6 by adding the following

"SECTION 20. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) The State Board of Medical Licensure shall develop an individual profile of each physician holding a valid license issued under KRS 311.530 to 311.620. The board shall make the profiles available to a member of the public upon the member's written request. The profile shall be transmitted to the requesting party both in printed form and in computerized form for distribution by way of the largest nonproprietory nonprofit cooperative public computer network at no charge.

(2) Each profile shall include:

(a) The names of each medical school the physician has attended, the dates in attendance at each school, and the date of the physician's graduation;

(b) The name and location of the school or hospital where the physician is or was enrolled in a graduate medical education program, the dates of attendance, and the date of graduation;

(c) Any specialty board certification the physician has and had, the current status of each certification, and the date each certification was awarded;

(d) The jurisdictions in which the physician practices and has practiced and the years in practice in each jurisdiction;

(e) The names of the hospitals where the physician has privileges to practice;

(f) The address of the physician's primary practice;

(g) The languages, if any, in which translation services are available at the physician's primary practice location;

(h) A statement on whether or not the physician participates in the Medicaid program;

(i) The name of any medical school on whose faculty the physician serves or has served and information on whether the physician has or has had any supervisory responsibilities for graduate medical education during the immediately past ten (10) years. The information shall also include the duration of each appointment listed;

(j) A listing of each publication written by the physician that has been published in peer-review medical literature during the previous ten (10) years;

(k) Information listing the physician's professional or community service activities and awards received;

(l) A listing of all medical malpractice court judgments, arbitration awards, or insurance settlements in the immediately past ten (10) years in which a payment was awarded to a complaining party on the physician's behalf;

(m) A detailed description of any of the following disciplinary actions that have been taken against the physician in the immediately past ten (10) years:

1. A revocation or involuntary restriction of privileges to practice in a hospital, due to the physician's competence or character by the hospital's governing board or an official of the hospital, after procedural due process was afforded the physician; or

2. A resignation from or nonrenewal of the physician's staff membership or a restriction of privileges to practice at a hospital that was taken in lieu of, or in settlement of, a pending disciplinary case that relates or was related to the physician's competence or character; and

(n) A listing of the felonies or misdemeanors determined by the board to be serious misdemeanors of which the physician was convicted or to which the physician has pleaded guilty or no contest within the immediately past ten (10) years.

(3) The board shall not charge for any expenses incurred in the transmittal of the profile.

(4) Prior to releasing the profile to a member of the public, the board shall provide each physician with a copy of his or her profile, and shall allow the physician a reasonable time, as set out in administrative regulations promulgated by the board, to correct any inaccuracies that appear in the profile.

(5) (a) Any information set out in paragraph (l) of subsection (2) of this section shall be reported in the profile in at least three (3) graduated categories indicating the level of significance of the award or settlement. The

information shall be reported in context by comparing the individual's malpractice awards and settlements to the experience of other physicians within the same specialty.

(b) The information provided under this subsection shall be disclosed with the following statement and any other clarifying information reasonably supplied by the board:

"Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim shall not be construed as creating the presumption of guilt."".

Floor Amendment No. 1 to the Committee Substitute to **HB 728**, by Representative Geveden:

Page 2 , line 9 after the word "***body***" insert the words "***for which the Personnel Cabinet provides personnel and payroll services***".

Page 3, line 22 after the word "***body***" insert the words "***for which the Personnel Cabinet provides personnel and payroll services***".

Floor Amendment No. 7 to the Committee Substitute to **HB 437**, by Representative Bratcher:

On page 55, line 6 after the period by inserting the following:

"***A teacher elected to a school council shall not be involuntarily transferred during his or her term of office.***".

Floor Amendment No. 24 to **HB 992**, by Representative Ratliff:

On page 54, after line 21, by inserting the following:

"Section 15. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. ~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 25 to **HB 992**, by Representative J. Turner:

On page 53, line 14, by deleting the phrase "***upon the existing record***"; and

On line 20, after the "."by deleting "***Claims which were dismissed upon a finding that the***"; and by deleting lines 21, 22, and 23 in their entirety. "

Floor Amendment No. 26 to **HB 992**, by Representative J. Turner:

On page 22, line 12, by deleting "***fifteen***" and inserting "***twenty***" in lieu thereof;

On page 22, line 13, by deleting "***percent (15%)***" and inserting "***percent (20%)***" in lieu thereof;

On page 22, line 20, by deleting "***five thousand dollars ($5,000)***", and inserting "***ten thousand dollars ($10,000)***" in lieu thereof.

Floor Amendment No. 27 to **HB 992**, by Representative J. Turner:

On page 16, line 19, by deleting the underlined language; and

On page 40, beginning on line 12 and ending on page 47, line 4, by deleting "Section 12" in its entirety; and

On page 40, after line 11, by inserting the following section:

"Section 12. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, ***where an employee returns to work at a wage equal to or greater than the employee's pre-injury wage,*** sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, ***unless the employee establishes a greater percentage of disability as determined under KRS 342.0011 (11), in which event the benefits shall not exceed two (2)*** times the ***permanent impairment rating, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks subject to the provisions of paragraph (d) of this subsection. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph.*** ~~[factor set forth in the table that follows:~~

~~AMA Impairment~~	~~Factor~~
~~0 to 5%~~	~~0.75~~
~~6 to 10%~~	~~1.00~~
~~11 to 15%~~	~~1.25~~
~~16 to 20%~~	~~1.50~~
~~21 to 25%~~	~~1.75~~
~~26 to 30%~~	~~2.00~~
~~31 to 35%~~	~~2.25~~
~~36% and above~~	~~2.50~~]

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) ***For permanent partial disability, except all cases described in paragraph (b) of this subsection, sixty-six and two-thirds percent (66-2/3 %) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or under KRS 342.0011(11), whichever is greater, for a maximum period from the date the disability arises, of four hundred twenty-five (425) weeks, subject, however, to the provisions of paragraph (d) of this subsection. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. Any temporary total disability period within the maximum period of permanent, partial disability***

benefits shall extend the maximum period of disability but shall not make a weekly benefit exceeding that determined in paragraph (a) of this subsection. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of disability.

[~~1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be one and one-half (1-1/2) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.~~

~~2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection.~~

~~3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.~~]

(d) For permanent partial disability, if an employee has a permanent ***impairment or*** disability rating ***greater than*** [~~of~~] fifty percent (50%) [~~or less~~] as a result of a work-related injury ***or occupational disease***, the compensable permanent partial disability period shall be [~~four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be~~] five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage[~~, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage~~], nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks[~~, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability~~].

(e) ***Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, the age and formal education shall be considered in determining income benefits under this subsection. Nonwork-related impairment or disability and claims under KRS 342.732 shall not be considered in determining whether the employee is impaired or disabled in excess of fifty percent (50%) for purposes of this subsection*** [~~For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter~~].

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.".

Floor Amendment No. 28 to **HB 992**, by Representative J. Turner:

On page 54, after line 11, by deleting Section 14., on lines 12 through 21, in its entirety.

Floor Amendment No. 29 to **HB 992**, by Representative J. Turner:

On page 46, after line 1, by inserting the following:

"(4) All income benefits payable pursuant to this chapter shall ***be reduced by ten percent (10%) annually beginning*** ~~[terminate]~~ as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, ***and by ten percent (10%) each year thereafter until the income benefits have been reduced by not more than fifty percent (50%). The reduction that occurs initially shall be against the awarded amount of income benefits, and thereafter, the annual reduction shall be made against the remaining benefit amount*** ~~[or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits]~~."; and

On page 46, beginning on line 2 and ending on line 19, by deleting subsection (4) in its entirety.

Floor Amendment No. 30 to **HB 992**, by Representative J. Turner:

On page 27, line 23, by bracketing and striking through "shall" and by inserting before it "***may, subject to subsection (1) of Section 16 of this Act,***"; and

On page 54, after line 21 by inserting the following sections:

"Section 15. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an arbitrator for benefit review. The arbitrator shall

facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) (a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation ***subject to subsection (1) of Section 16 of this Act***.

(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.

(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.

(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.

(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(7) Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

Section 16. KRS 342.315 is amended to read as follows:

(1) The commissioner ***may***~~[shall]~~ contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools ***only when***~~[whenever]~~ a ***complicated or unusual*** medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. ~~[The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.]~~

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 17. KRS 342.7305 is amended to read as follows:

(1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the latest available edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment."

(2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than eight percent (8%). No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.

(3)[~~The commissioner shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.~~

~~(4)~~] When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise shall be exclusively liable for benefits.".

Floor Amendment No. 21 to **SJR 57**, by Representative Riner:

On page 1, by deleting all whereas clauses on page 1 in their entirety; and

By deleting page 2, 3 and 4 in their entirety; and

by inserting in lieu thereof the following:

"WHEREAS, in the Preamble to Kentucky's Constitution, the Framers acknowledged Almighty God as the source of the peoples' liberty and invoked His blessings on the citizens of the Commonwealth:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution"; and

WHEREAS, in 1992, the Kentucky General Assembly enacted KRS 158.195 to prevent the censorship or suppression of the official Acts of Congress or the writings and speeches of America's Founders and Presidents which contain references to God or the Bible; and

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the governmental power of the state are derived; and

WHEREAS, many of the Ten Commandments have been codified in Kentucky's civil and criminal laws and similarly in the legal codes of the other forty-nine states; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: "the judicial laws of God, as they were delivered by Moses be a rule to all the courts in this jurisdiction"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution," emphasized its Biblical presuppositions:

> "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from public school classrooms:

> "We are spending less time in the classroom on the Bible which should be the principal text in our schools . . . ."; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship. . . . May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, President George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared:

> "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . ."; and

WHEREAS, Noah Webster, the author of dictionaries and the famed 1783 "Blue-Backed Speller", articulated the mindset of the Framers who presupposed a Biblical basis for law:

> "The moral principles and precepts contained in the Scriptures ought to form the basis for all our civil constitutions and laws"; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society, on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated:

> "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of that Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Saviour, Jesus Christ"; and

WHEREAS, President John Quincy Adams wrote concerning the civil function of the Mosaic law:

> "The law given from Sinai was a civil and municipal as well as a moral and religious code; it contained many statutes . . . of universal application - laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America:

> "There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that: 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear recognition of the same truth . . . this is a Christian nation'"; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English Language, stated:

> "Moreover, the Bible does what is so invaluable in human life -- it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters -- that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and

WHEREAS, President Woodrow Wilson's letter to the soldiers and sailors of the United States during World War I, recorded in the Congressional Record, advised them:

> "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and, most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, before his assassination on November 22, 1963, President John F. Kennedy prepared a major address on the status of American strength and security, choosing his last words from the Bible to reveal the source of America's true security: "Except the Lord keep the city, the watchman waketh but in vain"; and

WHEREAS, in his book, "Sources of Power," President Jimmy Carter acknowledged the importance of the Mosaic law as a foundation:

> "As we face changes and challenges, we need to hold on to the things that don't change, the foundations on which we can build our lives despite the uncertainty and danger of the future. God's law is the greatest of these foundations"; and

WHEREAS, in his February 22, 1990 proclamation designating 1990 as The International Year of Bible Reading, President George Bush declared:

> "The Bible has had a critical impact upon the development of Western civilization. Western literature, art, and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man -- one affirming the dignity and worth of the human person, made in the image of our Creator -- that inspired the principles upon which the United States is founded. President Jackson called the Bible "the rock on which our Republic rests" because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope, and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historic speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture

played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared, 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education, with assistance as necessary by the Legislative Research Commission, shall electronically transmit KRS 158.195 and this resolution to all public school teachers in the Commonwealth.

Section 2. Documents depicting the Ten Commandments may be posted in classrooms by any public school teacher and on other public property, when incorporated into an historical display along with other historic documents as described in KRS 158.195. The purpose of the display shall not be to advance religion, but to advance the important secular purpose of illustrating how the Bible and the Ten Commandments have influenced the faith, morals, and character of American leaders who, in turn, have shaped American law, public policy, and institutions. For that reason, the General Assembly expresses no preference as to which version of the Ten Commandments is displayed or whether the display is in English, Hebrew, or a foreign language being taught in the classroom. To advance the secular purpose of making citizens of the Commonwealth more knowledgeable concerning the founding of America, the intent of the nation's Founders, and the formative influence of the Bible and the Ten Commandments on American leaders, institutions, and law, a copy of this resolution shall be made a prominent part of any historic display on public property which includes any depiction of the Ten Commandments.

Section 3. No fiscal court, city council, or school board shall mandate the posting of any historical displays set forth in KRS 158.195 which incorporate a depiction of the Ten Commandments until that governing body first sets forth by resolution or policy its secular purpose for erecting the display. This purpose shall not advance religion.

Section 4. Each historic display which incorporates a depiction of the Ten Commandments shall be accompanied by clearly legible copies of this resolution and of KRS 158.195; and the cost of posting and maintaining the displays may be paid for by voluntary private contributions.

Section 5. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Department for Local Government for distribution by the department, in the manner it deems most efficient, to all elected officials of each city and county of the Commonwealth.

Section 6. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Secretary of State for distribution by the Secretary of State, in the manner he deems most efficient, to the statewide elected officials of the Commonwealth.

Section 7. The commissioner of the Department for Facilities Management in consultation with the Legislative Research Commission through its director shall relocate the monument which is inscribed with the Ten Commandments and which was displayed on the Capitol grounds for decades to a permanent site on the Capitol grounds near Kentucky's floral clock and it shall be made a part of an historic display which shall include the display of this Resolution."

Floor Amendment No. 31 **HB 992**, by Representative J. Turner:

On page 47, between lines 4 and 5, by inserting the following section and by renumbering the remaining sections accordingly:

"Section 13. KRS 342.7305 is amended to read as follows:

(1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the latest available edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment."

(2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than ***five percent (5%)***~~[eight percent (8%)]~~. No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.

(3) The commissioner shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.

(4) When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a

rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise shall be exclusively liable for benefits.".

Floor Amendment No. 32 to **HB 992**, by Representative J. Turner:

Beginning on page 47, line 25, after the period "(.)" by placing an open bracket around "These" and striking through the existing language and continuing through lines 26 and 27; and

On page 48, lines 1 through 5 by continuing the strike through of existing language; and

On page 48, line 6, by placing a closing bracket around the period "(.)" and striking through the existing language before the period "(.)"; and

On page 48, beginning on line 11, after the period "(.)" by placing an open bracket around "If" and striking through the existing language and continuing through lines 12 through 17; and

On page 48, line 18, by placing a closing bracket around the period "(.)" and striking through the existing language before the period "(.)".

Floor Amendment No. 33 to **HB 992**, by Representative J. Turner:

On page 16, line 23, by deleting "***six (6)***" and inserting in lieu thereof "***eight (8)***".

Floor Amendment No. 34 to **HB 992**, by Representative Ratliff:

On page 18, after line 26, by inserting the following section and by renumbering the remaining sections accordingly

"Section 4. KRS 342.165 is amended to read as follows:

(1) If an accident***, with injury,*** is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder, communicated to the employer and relative to installation or maintenance of safety appliances or methods, ***or the intentional removal of a safety device from machinery, then the injured employee shall have a cause of action at law against the employer as if this chapter had not been passed, for the damage so sustained by the employee, his dependents, or personal representatives as is recoverable by law. Any award or benefit recovered as a result of bringing suit against the employer shall accrue to the employee or his dependents in addition to any benefits awarded under this chapter***~~[the compensation for which the employer would otherwise have been liable under this chapter shall be increased fifteen percent (15%) in the amount of each payment]~~. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable order or administrative regulation of the commissioner or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) The employee has knowingly and willfully made a false representation as to his physical condition or medical history;

(b) The employer has relied upon the false representation, and this reliance was a substantial factor in the hiring; and

(c) There is a causal connection between the false representation and the injury for which compensation has been claimed."

On page 36, after line 3, by inserting the following section and by renumbering the remaining sections accordingly

Section 10. . KRS 342.610 is amended to read as follows:

(1) Every employer subject to this chapter shall be liable for compensation for injury, occupational disease, or death without regard to fault as a cause of the injury, occupational disease, or death.

(2) A contractor who subcontracts all or any part of a contract and his carrier shall be liable for the payment of compensation to the employees of the subcontractor unless the subcontractor primarily liable for the payment of such compensation has secured the payment of compensation as provided for in this chapter. Any contractor or his carrier who shall become liable for such compensation may recover the amount of such compensation paid and necessary expenses from the subcontractor primarily liable therefor. A person who contracts with another:

(a) To have work performed consisting of the removal, excavation, or drilling of soil, rock, or mineral, or the cutting or removal of timber from land; or

(b) To have work performed of a kind which is a regular or recurrent part of the work of the trade, business, occupation, or profession of such person

shall for the purposes of this section be deemed a contractor, and such other person a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

(3) Liability for compensation shall not apply where injury, occupational disease, or death to the employee was proximately caused primarily by voluntary intoxication as defined in KRS 501.010, or by his willful intention to injure or kill himself or another.

(4) ~~[If injury or death results to an employee through the deliberate intention of his employer to produce such injury or death, the employee or his dependent as herein defined shall receive the amount provided in this chapter in a lump sum to be used, if desired, to prosecute the employer. The dependents may bring suit against the employer for any amount they desire.]~~ If injury or death ***is caused in any degree to an employee by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder, communicated to the employer and relative to installation or maintenance of safety appliances or methods, or the intentional removal of a safety device from machinery then***~~[results to an employee through the deliberate intention of his employer to produce such injury or death]~~, the ***injured*** employee or his dependents may take under this chapter, ***and***~~[or in lieu thereof,]~~ have a cause of action at law against the employer as if this chapter had not been passed, for such damage so sustained by the employee, his dependents, or personal representatives as is recoverable at law. ***Any award or benefit recovered by the employee or his dependents as a result of bringing suit against the employer, shall be in addition to any benefits awarded under this chapter***~~[If a suit is brought under this subsection, all right to compensation under this chapter shall thereby be waived as to all persons. If a claim is made for the payment of compensation or any other benefit provided by this chapter, all rights to sue the employer for damages on account of such injury or death shall be waived as to all persons]~~.

(5) Prior to issuing any building permit pursuant to KRS 198B.060(10), every local building official shall require proof of workers' compensation coverage from the builder before a permit is issued. A person who is exempt under the exception contained in KRS 342.650(2), and any contractor otherwise exempt from this chapter, shall so certify to the local building official, in writing and on a form prescribed by the commissioner, in lieu of providing proof of workers' compensation coverage.

(6) Every employer subject to this chapter, at its principal office and such other locations where employees customarily report for payroll and personnel matters, shall post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, the employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the commissioner so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. The format and contents of the notice shall be established by the commissioner through administrative regulation, and copies shall be provided to the employer by its insurance carrier.

Floor Amendment No. 35 to **HB 992**, by Representative Ratliff:

On page 54, after line 21, by inserting the following section:

"Section 15. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools***, and the Pikeville School of Osteopathic Medicine,*** to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an

employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Floor Amendment No. 36 to **HB 992**, by Representative Ratliff:

On page 52, line 2, after "(2)" by inserting the following:

No claim for income benefits under this section shall be denied solely on the basis of the results of a chest x-ray.

(3)"; and

On page 52 at the beginning of line 7 by inserting *"(4)"*; and

On page 52 at the beginning of line 19 by inserting *"(5)*"; and

On page 52, line 7 by bracketing and striking through "(3)"; and

On page 52, line 19 by bracketing and striking through "(4)"; and

On page 52, line 24, by deleting "*(5)*" and inserting *(6)* in lieu thereof; and

On page 53, line 8, by deleting "*(6)*" and inserting "*(7)*" in its place; and on line 10, by deleting "*(7)*" and inserting "*(8)*" in its place; and on line 24, by deleting "*(8)*" and inserting "*(9)*" in its place; and

On page 54, line 3, by deleting "*(9)*" and inserting "*(10)*"in its place".

Floor Amendment No. 37 to **HB 992**, by Representative Ratliff:

On page 54, after line 21, by adding the following section:

"Section 15. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence. ***Notwithstanding the provisions of this subsection, medical evidence from medical providers, other than the medical schools, that consists of x-rays that conform to the standards required in this chapter and interpretations of those x-rays by certified "B" readers or certified radiologists, shall be afforded presumptive weight by arbitrators and administrative law judges, and the burden to overcome this evidence shall be on the opponent of that evidence.***

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether

impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under rules previously suspended:

HB 144:	Representative Horlander
HB 488:	Representative Colter
HB 749:	Representative P. Clark
HB 810:	Representative Alexander
HB 823:	Representatives Alexander, Nesler
HB 825:	Representative Damron
HB 852:	Representative P. Clark
HB 985:	Representative Colter
HCR 139:	Representative Jordan

Announcements

The following meetings were announced:

Health and Welfare, March 9, 2000, upon adjournment, Room 125

Labor and Industry, March 9, 2000, upon adjournment, Room 129

Licensing and Occupations, March 9, 2000, upon adjournment, Room 149

Budget Review Subcommittee on Transportation, March 10, 2000, 8:30

Tourism, Development, and Energy, March 9, 2000, upon adjournment

Judiciary, March 10, 2000, 9:00 a.m., Room 131

Agricultural and Small Business, March 10, 2000, 9:00 a.m., Room 149

Budget Review Subcommittee on Education, March 10, 2000, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 10, 2000.

The motion that the House adjourn until 10:00 a.m., March 10, 2000, was adopted by voice vote.

MARCH 10, 2000

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Polston and T. Turner.

Senate Message

Announcing passage of **SB 2, SB 12, SB 21, SB 87, SB 134, SB 175, SB 263, SB 279, SB 280, SB 289, SB 290, SB 294, HB 126, HB 346, HB 407, HB 429, HCR 19, HCR 21, HCR 23, HCR 24, HJR 48,** and **HJR 78**. (Time: 10:15 a.m.)

Message in regard to **HB 275**: The Senate has passed **HB 275** with Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 348**: The Senate has passed **HB 348** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 486**: The Senate has passed **HB 486** with Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 501**: The Senate has passed **HB 501** by way of Senate Committee Substitute and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 9, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **SB 300**

Education: **SB 259, SB 287**

Judiciary: **SB 298**

Local Government: **SB 163**

Natural Resources and Environment: **SJR 68**

Transportation: **HR 151, SB 69, SJR 73**

Report of Committees

The Committee on Licensing and Occupations reported **HB 1014** and **SB 247** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1014, AN ACT relating to local option precinct elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) To promote economic development and tourism in a city or county in which prohibition is in effect, a local option election for the limited sale of alcoholic beverages by the drink may be held in any precinct containing a golf club that

has a nine (9) hole or eighteen (18) hole golf course, and also has dining facilities for at least one hundred (100) people, notwithstanding any other provisions of law.

(2) A local option election authorized under subsection (1) of this section shall be conducted in the same manner as provided in this chapter, except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages by the drink at (name of golf club) in the (name of precinct)?".

(3) Upon approval of the proposition, the Department of Alcoholic Beverage Control may issue a license to the golf club for the sale of alcoholic beverages by the drink as provided in KRS 243.030(8) and (18) and KRS 243.040(4).

(4) No alcoholic beverage license shall be issued to any applicant within the precinct, except the golf club named in the proposition.

SB 247, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter ***and in KRS Chapters 242 and 243***, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products[~~ if they are unfit for use for beverage purposes~~]:

- (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
- (b) Patented, patent, and proprietary medicines;
- (c) Toilet, medicinal, and antiseptic preparations and solutions;
- (d) Flavoring extracts and syrups;
- (e) Denatured alcohol or denatured rum;
- (f) Vinegar and preserved sweet cider;
- (g) Wine for sacramental purposes;
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
- (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.

(9) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(11) "City administrator" means city alcoholic beverage control administrator.

(12) "Commissioner" means the commissioner of alcoholic beverage control.

(13) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(15) "County administrator" means county alcoholic beverage control administrator.

(16) "Department" means the Department of Alcoholic Beverage Control.

(17) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(18) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(19) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(20) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(21) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(22) "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(23) "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(24) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(25) "License" means any license issued pursuant to KRS 243.020 to 243.670.

(26) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(27) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(30) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(31) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(32) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(33) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(34) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers and that has a bona fide kitchen facility.

(35) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the

consumer or not.

(36) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(37) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(38) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(39) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(40) "Secretary" means the secretary of the Kentucky Revenue Cabinet.

(41) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(42) "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(43) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(44) "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(45) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(46) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(47) "Warehouse" means any place in which alcoholic beverages are housed or stored.

(48) "Wholesale sale" means a sale to any person for the purpose of resale.

(49) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(50) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(51) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 2. KRS 241.200 is amended to read as follows:

Appeals from the orders of each city administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the city administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the city administrator shall be governed by KRS ***Chapter 13B***[~~243.550 to 243.590~~].

Section 3. KRS 241.260 is amended to read as follows:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS ***Chapter 13B***[~~243.550 to 243.590~~].

SECTION 4. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 5. KRS 242.1297 is amended to read as follows:

Notwithstanding any law to the contrary, a precinct located in a city of the third class where the entire city is wet territory, may have an election to take the sense of the voters of the precinct on the application of KRS 242.220 to 242.430 in the precinct. The election shall be held in the precinct in the manner prescribed in KRS ***242.020***[~~242.010~~] to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(5); however, no election shall be held in the same precinct more often than once every five (5) years. The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

Section 6. KRS 242.240 is amended to read as follows:

A person shall not sell or give any of the articles listed in KRS ***241.010(2)(a) to (e) and 241.010(h)***~~[242.010(2)(a) to (h)]~~ as not within the definition of alcoholic beverages, knowing that, or under such circumstances that, the seller or giver might reasonably deduce that the purchaser or person to whom the article is given intends to use it for beverage purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 8. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a) In counties containing cities of the first class	$1,000.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident, special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00

(23)	Restaurant wine license, per annum	$500.00
(24)	Farm winery license, per annum	$100.00
	(a) Farm winery, off-premises retail outlet license, per annum	$25.00
(25)	Special temporary wine license, per event	$50.00
(26)	Caterer's license, per annum	$800.00
(27)	Souvenir retail liquor license, per annum	$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	$100.00
(29)	Airport drink license, per annum	$1,000.00
(30)	Convention center or convention hotel complex license, per annum	$5,000.00
(31)	Extended hours[~~,~~] supplemental license, per annum	$2,000.00
(32)	Horse race track license, per annum	$2,000.00
(33)	Air or rail system license, per annum	$2,000.00
(34)	Riverboat license, per annum	$1,000.00
(35)	Bottling house license, per annum	$1,000.00
(36)	Hotel in-room license, per annum	$200.00
(37)	Bonded warehouse license, per annum	$1,000.00
(38)	Air transporter liquor license, per annum	$500.00
(39)	Replacement or duplicate license	$25.00

(40) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (39). The application fee shall be applied to the licensing fee if the ***license***[~~application~~] is issued***; otherwise it***[~~ and~~] shall be retained by the department[~~ if the license is denied~~].

Section 9. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	$2,500.00
(2)	Microbrewery license, per annum	$500.00
(3)	Distributor's license, per annum	$500.00
(4)	Malt beverage retail license, per annum:	
	(a) New applicants	$200.00
	(b) Renewals	$150.00
(5)	Dining car license, per annum	$200.00
(6)	Transporter's license, per annum	$100.00
(7)	Special temporary license, per ***event***[~~month or part of month~~]	$50.00
(8)	Special off-premises retail storage license, per annum	$100.00
(9)	Distributor's storage, per annum	$250.00
(10)	Special beer transporter's license, per annum	$100.00
(11)	Brew-on-premises license, per annum	$500.00
(12)	Out-of-state brewer license, per annum	$1,500.00
(13)	Malt beverage warehouse license, per annum	$1,000.00
(14)	Replacement or duplicate license, per annum	$25.00

(15) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee ***if***~~[when]~~ the ***license***~~[application]~~ is issued, or ***otherwise the fee shall be*** retained by the department~~[if the license is denied]~~.

Section 10. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.

(4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license ***shall be***~~[is]~~ required, where applicable. An~~[applicant for the license shall meet the qualifications of KRS 243.055, and an]~~ extended supplement license under subsection (5) of this section may ***also*** be issued ***where applicable***. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class, if the original license was issued prior to July 15, 1998.

(5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, and passengers at large commercial airports.

Section 11. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. ***Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount***~~[The licenses may only be issued by the city administrator, and the fee shall not exceed the following]~~:

(1) Distilled spirit licenses as set forth in KRS 243.030:

(a)	Distiller's license, per annum	$500.00
(b)	Rectifier's license, per annum	$3,000.00
(c)	Blender's license, per annum	$3,000.00
(d)	Wholesaler's distilled spirits and wine license, per annum	$3,000.00
(e)	Distilled spirits and wine retail package license, per annum:	
1.	In counties containing cities of the first class	$1,200.00
2.	In counties containing cities of the second class	$1,000.00

3.	In counties containing cities of the third class	$800.00
4.	In counties containing cities of the fourth class	$600.00
5.	In all other counties	$400.00
(2)	Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:	
(a)	In counties containing cities of the first class	$1,600.00
(b)	In counties containing cities of the second class	$1,000.00
(c)	In counties containing cities of the third class	$800.00
(d)	In counties containing cities of the fourth class	$600.00
(3)	Distilled spirits and wine special temporary liquor license, per event:	
(a)	In counties containing cities of the first class	$266.66
(b)	In counties containing cities of the second class	$166.66
(c)	In counties containing cities of the third class	$133.33
(d)	In counties containing cities of the fourth class	$100.00
(4)	Special temporary wine license, per event	$50.00
(5)	Distilled spirits and wine special temporary auction license, per event	$200.00
(6)	Special private club license, per annum	$300.00
(7)	Distilled spirits and wine special Sunday retail drink license, per annum	$300.00
(8)	Extended hours supplemental license, per annum	$2,000.00
(9)	Nonresident special agent or solicitor's license, per annum	$40.00
(10)	Restaurant wine license, per annum:	
(a)	New applicants	$600.00
(b)	Applicants for renewal	$400.00
(11)	Caterer's license, per annum	$800.00
(12)	Riverboat license, per annum	$1,200.00
(13)	Horse race track license, per annum	$2,000.00
(14)	Convention center or convention hotel complex license, per annum	$2,000.00
(15)	Bottling house distilled spirits license or wine storage license, per annum	$1,000.00
(16)	Souvenir retail liquor license, per annum	$1,000.00
(17)	Malt beverage licenses as follows:	
(a)	Brewer's license, per annum	$500.00
(b)	Microbrewery license, per annum	$500.00
(c)	Malt beverage distributor's license, per annum	$400.00
(d)	Retail malt beverage license, per annum	$200.00
(e)	Special temporary retail malt beverage license, per event	$25.00
(f)	Malt beverage brew-on-premises license, per annum	$100.00

Section 12. KRS 243.360 is amended to read as follows:

(1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for ***an out-of-state brewer's license, supplemental bar license, extended hours supplemental license,*** a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage~~[alcohol]~~ license, a vendor license, a transporter's license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

(2) The notice shall conform in all material respects to the following requirements:

(a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;

(b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and

(c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverages, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."

(3) ~~[A license shall not be issued until the thirty (30) day period in which a protest is permissible has expired.]~~Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

Section 13. KRS 243.430 is amended to read as follows:

(1) The state administrator may reject any application for a license issued under KRS 243.030 and 243.040 if the application is incomplete or the correct fee has not been remitted with the application. In rejecting an application, the state administrator shall provide a written statement of the deficiencies contained in the application.

(2) A license ***shall not be issued until the thirty (30) day period in which a protest is permissible has expired. Any license*** for which public notice under KRS 243.360 is required ***may conditionally***~~[shall not]~~ be issued in less than thirty (30) days from the date the application is ***received if the premises has previously operated under the same type of license within the last twelve (12) months***~~[substantially complete, except the renewal of the license may be issued upon receipt of all necessary information by the state administrator with jurisdiction over the license]~~. All remaining licenses provided for in KRS 243.030 ***or Section 9 of this Act*** shall be issued when, in the sound discretion of the~~[distilled spirits]~~ administrator, all of the information necessary has been obtained.

Section 14. KRS 243.540 is amended to read as follows:

(1) ***The provisions of this section shall apply to any licensee who is unable to continue in business at the license premises because of an act of God; a casualty; an acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency; a voluntary or involuntary acquisition by any private corporation through the corporation's power of eminent domain; a loss of lease because the landlord fails to renew an existing lease; court action; or other verifiable business reason***~~[If a license issued under KRS 243.020 to 243.670 is revoked, voluntarily surrendered, or subject to disposition by a court, or is not renewed by the licensee, or if an act of God requires the relocation or closure of the licensee's business, the licensee's inventory shall be disposed of in accordance with the requirements set out in this section]~~.

(2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state administrator, dispose of and transfer his or her stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, vintner, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.

(3) ~~[If]~~A retail licensee in good standing with the department ***who*** voluntarily ceases to operate his or her business ***for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event.***~~[,]~~ The following requirements shall apply to the disposition of the licensee's inventory:

(a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;

(b) If a licensee has terminated his or her business and has surrendered his or her license to the department, he or she shall submit a written request for approval from the state administrator within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and

(c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer his or her inventory to another licensed retail premises he or she owns, he or she shall submit a request in writing to the state administrator at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.

(4) If a retail licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a retail alcoholic beverage licensee. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.

Section 15. KRS 244.090 is amended to read as follows:

(1) A person holding any license under KRS 243.020 to 243.670 shall not knowingly employ in connection with his or her business any person who:

(a) Has been convicted of any felony within the last two (2) years. The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998;

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;

(c) Is under the age of twenty (20) years, unless the person is employed:

1. In a bottling house or room of a licensed distiller, vintner, brewer, or rectifier;

2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or as provided in KRS 244.087; or

3. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:

a. A restaurant that derives at least fifty percent (50%) of its gross sales from the sale of food for consumption on the licensed premises; or

b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales.

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(2) ***The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.***

(3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Section 16. KRS 244.350 is amended to read as follows:

No retailer of distilled spirits or wine by the package shall~~[accept orders for distilled spirits and wine by telephone or by mail, nor shall he]~~ deliver or advertise the delivery of distilled spirits and wine.

The Committee on Labor and Industry reported **HB 528, HB 930, HB 1010,** and **HCR 139** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 528, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the secretary of the Cabinet for Economic Development, the secretary of the Revenue Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary for economic development, who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth;~~[and]~~

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth***; and***

(e) Beginning on the effective date of this Act, each of the appointed members shall annually receive compensation of twelve thousand dollars ($12,000).

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky Workers' Compensation Funding Commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

HB 930, AN ACT relating to telephone solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any telemarketing company to engage in the following conduct:

(1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;

(2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;

(3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

(5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization;

(6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

(7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;

(8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;

(9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;

(10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;

(11) Threatening, intimidating, or using profane or obscene language;

(12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;

(13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive,

or harassing;

(14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;

(15) Making or causing to be made an unsolicited telephone solicitation call if the number for that telephone appears in the current publication of the "no telephone solicitation calls" list maintained by the Office of the Attorney General, Division of Consumer Protection. Any holder of a telephone number may notify the division and be placed on a "no telephone solicitation calls" list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The names of persons requesting to be on the "no telephone solicitation calls" list shall remain on the list until the person rescinds his or her name from the list. The list shall be published quarterly in hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each month each telemarketing company shall be deemed to be on notice not to solicit any person whose name appears on the list. The division shall charge a fee calculated to defray costs of the no telephone solicitation calls program to telemarketing companies for the provision of the list. Funds collected shall be deposited into the division's trust and agency account. The list shall be made available to requesters either on a statewide or county by county basis;[~~or~~]

(16) Engaging in telemarketing to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location*; or*

(17) Failing to notify the consumer either in writing or by telephone that his or her free trial offer period for a subscription or service has ended and that the consumer has the option of canceling the subscription or service before the consumer's account is charged for the next paid offer period.

Section 2. KRS 367.46999 is amended to read as follows:

Any person, including, but not limited to, a merchant, a telemarketer, a salesperson, agent, or representative of the merchant, or an independent contractor, who knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony, except that any person who violates KRS 367.46955(7) to *(17)*[~~(16)~~] shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for any subsequent offense. The Office of the Attorney General shall have concurrent enforcement powers as to such felonies and misdemeanors.

HB 1010, AN ACT relating to firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

(1) "Public employer" means any political subdivision of the state including any special district, city, county, charter county, or urban-county government, except a city subject to KRS Chapter 345;

(2) "Firefighter" means a person who is a paid employee of a fire department of a public employer who is involved in activities associated with either training, suppression, prevention, inspection, investigation, rescue, emergency, medical responses, or related activities as the result of an appointment from a duly established civil service eligibility list or other lawful appointee;

(3) "Employee organization" means any employee organization of any kind in which firefighters participate and which exists for the primary purpose of dealing with employers concerning wages, hours, and conditions of employment;

(4) "Exclusive representative" means the employee organization which has been designated by the commissioner as the representative of the majority of firefighters in an appropriate unit or has been so recognized by the public employer;

(5) "Meet and confer" means to meet at reasonable times, including meeting in good faith with the employee organization in advance of the budget making process, to discuss wages, hours, and other conditions of employment.

(6) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Firefighters of a public employee shall have, and shall be protected in the exercise of the rights:

(a) Of self-organization;

(b) To form, join, or assist any employee organization;

(c) To meet and confer through representatives of their own choosing on questions of wages, hours, and other conditions of employment.

In the exercise of these rights, firefighters shall be free from interference, restraint, or coercion.

(2) An employee organization designated by the commissioner as the representative of the majority of firefighters in an appropriate unit or recognized by a public employer as the representative of the majority of employees in an

appropriate unit shall be the exclusive representative for the employees of the unit for the purpose of meeting and conferring with respect to wages, hours, and other conditions of employment.

(3) Employee organizations recognized by a public employer as the exclusive representative, or so designated in accordance with Sections 1 to 6 of this Act, shall be responsible for representing the interest of all firefighters in the unit without discrimination.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The public employer and the employee organization designated as exclusive representative of firefighters in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to meet and confer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Public employers, their representatives, or their agents are prohibited from:

(a) Interfering, restraining, or coercing firefighters in the exercise of the rights guaranteed in Section 2 of this Act;

(b) Dominating or interfering with the formation, existence, or administration of any employee organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization. But, nothing in Sections 1 to 6 of this Act, nor in any other section of the Kentucky revised statutes, shall preclude a public employer from making an agreement with an employee organization to require, as a condition of employment, membership in that employee organization on or after the thirtieth day following the beginning of the employment, or on the effective date of the agreement, whichever is later;

(d) Discharging or otherwise discriminating against an employee because the employee has signed or filed any affidavit, petition, or complaint or given any information or testimony and in accordance with Sections 1 to 6 of this Act; and

(e) Refusing to meet and confer in good faith with an employee organization which is the exclusive representative of employees in an appropriate unit.

(2) Employee organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Firefighters in the exercise of the rights guaranteed in Section 2 of this Act; and

2. A public employer in the selection of the employer's representative for the purposes of meeting and conferring;

(b) Refusing to meet and confer in good faith with a public employer, if they have been designated in accordance with the provisions in Sections 1 to 6 of this Act as the exclusive representative of firefighters in an appropriate unit.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Whenever, in accordance with administrative regulations and as prescribed by the commissioner, a petition has been filed:

(a) By a firefighter or group of firefighters or any employee organization acting in behalf of thirty percent (30%) of the employees who have signed authorization cards and the employee organization showing proof of representation:

1. Who wish to have the authority to meet and confer by an employee organization as exclusive representative; or

2. Assert that the employee organization which has been certified or is currently being recognized by the public employer as the exclusive representative is no longer the representative of the majority of employees in the unit; or

(b) By the public employer alleging that one (1) or more employee organizations has presented to it a claim to be recognized as a representative of the majority of firefighters in an appropriate unit,

the commissioner shall investigate the petition, and if the commissioner has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the commissioner finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which employee organization the firefighters desire to be represented and shall certify the result thereof.

(2) In order to assure firefighters the fullest freedom in exercising the rights provided in Sections 1 to 6 of this Act, the commissioner shall decide, in each case, which is the appropriate unit for the purposes of meeting and conferring, based on factors such as community of interest, wages, hours, other working conditions of the firefighters involved, and the desires of the firefighters.

(3) An election shall not be held in any unit or in any subdivision of a unit within which, in the preceding twelve (12) month period, a valid election has been held. The commissioner shall determine who is eligible to vote in the election

and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. An employee organization that receives the majority of the votes cast in an election shall be certified by the commissioner as exclusive representative of all the firefighters in the unit.

(4) Nothing in Sections 1 to 6 of this Act, or in any other section of the Kentucky Revised Statues shall be construed to prohibit recognition of an employee organization as the exclusive representative by a public agency by mutual consent.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations as necessary to carry out the provisions of Sections 1 to 6 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Nothing contained in Sections 1 to 6 of this Act shall be construed as granting a right to employees covered by Sections 1 to 6 of this Act to strike.

HCR 139, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a Task Force on Violence in the Workplace.

WHEREAS, violence in the workplace is an increasing occupational hazard stemming from causes within and outside of the workplace, and includes offensive behavior ranging from verbal assaults, threats, and harassment to homicide; and

WHEREAS, on September 14, 1989, Louisville, Kentucky became the site of one of the nation's most highly publicized occurrences of workplace violence when Joseph T. Wesbecker, who had been placed on long-term mental disability leave, entered the Standard Gravure printing company with an assault rifle and killed seven and wounded thirteen employees before committing suicide at the plant; and

WHEREAS, according to the Kentucky Department of Labor's report "Fatal Occupational Injuries in Kentucky, 1995-1998", sixteen assaults and violent acts resulted in occupational fatalities in 1998, with five of the six fatalities occurring to women being caused by violent acts and assaults; and

WHEREAS, the National Institute for Occupational Safety and Health (NIOSH) reported in 1997 that an average of twenty workers are murdered each week in the United States, and an estimated one million workers, or eighteen thousand per week, are victims of nonfatal workplace assaults, with homicide being the leading cause of death for women at work. In addition, men are three times at risk of being killed on the job, and a majority of the nonfatal assaults occurred in the service and retail industries; and

WHEREAS, various economic costs of workplace violence include employees in a dangerous environment and associated legal concerns, higher rates of absenteeism, lower productivity, low morale, and increased health care costs for physical and emotional trauma; and

WHEREAS, the Kentucky General Assembly recognizes the need to identify issues and areas within the state that place employees at high risk for occupational violence, and recognizes the need for cooperation and coordination among employers, employees, government agencies with public health and safety responsibilities, and the general public to develop strategies to improve and increase worker safety;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to create a Task Force on Violence in the Workplace to conduct a study of the frequency and incidence of occupational violence in the Commonwealth, and to make recommendations to the General Assembly and the Governor on changes needed in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards to facilitate the prevention of violence in the workplace.

Section 2. The membership of the Task Force on Violence in the Workplace shall include the following:

(1) Two members appointed by the President of the Senate, one of whom shall represent large employers who employ two hundred and fifty or more employees, and one of whom shall represent employees who are not members of an employee organization;

(2) Two members appointed by the Speaker of the House of Representatives, one of whom shall represent small employers who employ less than two hundred and fifty employees, and one of whom shall represent employees who are members of an employee organization;

(3) Three members appointed by the Governor, one of whom shall represent law enforcement, one of whom shall represent victims' rights, and one of whom shall represent the mental health professions;

(4) Two members appointed by the Chief Justice of the Supreme Court;

(5) Secretaries of the Labor, Justice, Workforce Development, Families and Children, Health Services, and Personnel Cabinets, or their designees;

(6) Executive director of the Commission on Women

(7) Executive director of the Governor's Office of Child Abuse and Domestic Violence Services;

(8) Public advocate, or his designee;

(9) Attorney General, or his designee; and

(10) One citizen at large.

Section 3. The task force shall select a chair and co-chair from its membership. Eleven members of the task force shall constitute a quorum, and eleven votes shall be needed to validate an action. Members of the task force shall serve without compensation, but shall be reimbursed for their actual and necessary expenses while engaged in the performance of their duties as members.

Section 4. All state agencies and postsecondary education institutions shall provide, as requested by the task force, any information and expertise which it has available relative to occupational violence. Private sector employers and employees or organizations representing their interests, along with nonprofit organizations working in relevant fields, are likewise encouraged to provide the task force with any information and expertise they have available relative to occupational violence.

Section 5. The task force shall study the frequency and incidence of workplace violence in Kentucky, and the scope of the study shall address the following:

(1) Incidence and possible causes of workplace violence in this state using available data and expertise from the United States Department of Labor, the United States Department of Justice, the Attorney General, the Kentucky Labor, Justice, Workforce Development, Families and Children, and Health Services Cabinets, law enforcement agencies, employer and employee organizations, insurance companies, and any other sources that are readily available;

(2) Methods of identifying situations in which violent incidents at work are most likely to occur;

(3) Adequacy of current criminal and civil penalties and remedies regarding those individuals who commit violent acts in the workplace, and

(4) Recommendations concerning laws, administrative regulations, ordinances, policies, or incentives, if any, necessary for dealing with workplace violence and its aftermath and for protecting employees, and aiding and training employers to prevent incidents of violence in the workplace.

Section 6. The task force may issue periodic reports to the Interim Joint Committee on Labor and Industry of the Kentucky General Assembly, but shall issue its final report with findings and recommendations to the Legislative Research Commission no later than July 1, 2001. The task force shall cease to exist at 12 midnight on December 31, 2001.

Section 7. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Tourism, Development, and Energy reported **HB 895,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 895, AN ACT relating to the purchase of wholesale electric power by municipal electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.560 is amended to read as follows:

(1) The provisions of KRS 96.550 to 96.900 shall not apply in the case of a municipality now operating an electric plant under any existing law, but the governing body of any such municipality may elect to operate under the provisions of KRS 96.550 to 96.900, in which case, from the time of the exercise of such election and the appointment of a board~~[hereunder]~~, the electric plant of such municipality shall be operated under the provisions of KRS 96.550 to 96.900.

(2) KRS 96.550 to 96.900 are intended to be the complete law of this state with respect to municipalities acquiring electric plants after June 1, 1942, and the complete law of this state with respect to the operation of electric plants acquired by any municipality after June 1, 1942. Any proceedings heretofore taken by any municipality relating to the subject matter of KRS 96.550 to 96.900, whether or not commenced under any other law, may be discontinued by the municipality and new proceedings instituted under KRS 96.550 to 96.900.

(3) It hereby is declared to be the legislative purpose and intent to vest in the municipalities of all the classes in this Commonwealth full power and authority to establish, acquire, own and operate electric plants; to empower and authorize said municipalities to contract with and acquire from the Tennessee Valley Authority or any governmental agency electric power or current for resale and to authorize and require the payment, out of earnings from the sale of electric power or current, of certain amounts to the state, counties, municipalities, school districts and other taxing districts in order that they may not suffer from loss of revenue resulting from the tax exemption created by the transfer of property from private to

public ownership, and in the interest of the general welfare.

(4) It hereby is declared to be the further legislative intent that KRS 96.550 to 96.900 shall be the complete law of this state with respect to municipalities acquiring electric plants, after June 1, 1942, and the complete law of this state with respect to the operation of electric plants acquired by any municipality after June 1, 1942; and that all laws and parts of laws in conflict herewith, to the extent of such conflict, hereby are repealed.

(5) The board of any municipal electric utility electing to operate under the authority of KRS Chapter 96 and any municipality operating an electric utility under KRS 96.172 to KRS 96.188 or KRS 96.520 and 96.530 and notwithstanding the limitations of other provisions of this section, may authorize membership in and participation through a group purchasing program with other public and private electric utilities or association of public or private utilities through which the municipality may purchase wholesale electric power when it appears to the governing board of the municipal utility that such group purchasing programs can affect economy or efficiency in its operations; or if deemed advantageous by the governing board to separately purchase wholesale electric power from any person or entity for resale purposes. All such wholesale purchases and participation in group purchasing programs shall be exempt from the provisions of KRS 424.260 and KRS Chapter 45A.

The Committee Substitute No. 1 to **HB 895** is as follows:

HB 895, AN ACT relating to the purchase of wholesale electric power by municipal electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

(1) A municipal utility that owns or operates an electric utility under KRS 96.550 to 96.900 may authorize:

(a) Membership and participation in a group purchasing program when the municipal utility deems that the purchase of power through a group purchasing program can affect economy or efficiency in the operations of the municipal utility; or

(b) The purchase of wholesale electric power for the purpose of resale from any person or entity when the purchase is deemed advantageous to the municipal utility.

(2) "Group purchasing program" means a voluntary program that may consist of both public and private utilities for the purchase of wholesale electric power.

(3) A municipal utility that is purchasing wholesale electric power for resale to the ultimate customers of the municipal utility as provided under subsection (1) of this section shall not be subject to the provisions of KRS 45A.365 and KRS 424.260.

Section 2. KRS 45A.365 is amended to read as follows:

(1) All contracts or purchases shall be awarded by competitive sealed bidding, except as otherwise provided by KRS 45A.370 to 45A.385 *and for the purchase of wholesale electric power by municipal utilities as provided in subsection (1) of Section 1 of this Act*.

(2) The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(3) Adequate public notice of the invitation for bids shall be given prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper of general circulation in the local jurisdiction not less than seven (7) days before the date set for the opening of the bids. The public notice shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.

(4) The bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price.

(6) The local public agency may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.

Section 3. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ten thousand dollars ($10,000) without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ten thousand dollars ($10,000), the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Purchases or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

The Committee on Health and Welfare reported **HB 297,** with Committee Substitute attached thereto, **HB 762,** with Committee Substitute attached thereto, **HB 980, HB 1012,** with Committee Substitute attached thereto, **HR 150, SB 51,** with Committee Substitute attached thereto, **SB 100, SB 111,** with House Committee Substitute attached thereto, **SB 174, SB 186, SB 212,** and **SCR 39** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 297, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is

approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Families and Children;

(4) "Certified juvenile[~~ holding~~] facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training ***in juvenile detention*** developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) ***"Child in need of services" means a child who is:***

(a) A habitual runaway;

(b) A habitual truant;

(c) Beyond the control of parents;

(d) Beyond the control of school; or

(e) Found to have committed an offense, which would not be a crime if committed by an adult, provided that a child found to have violated a state statute or local ordinance such as a violation of curfew or possession of alcoholic beverages shall not be considered a child in need of services;

(9) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(10)[~~(9)~~] "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(11)[~~(10)~~] "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(12)[~~(11)~~] "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(13)[~~(12)~~] "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(14)[~~(13)~~] "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(15)[~~(14)~~] "Deadly weapon" has the same meaning as it does in KRS 500.080;

(16)[~~(15)~~] "Department" means the Department for Social Services;

(17)[~~(16)~~] "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(18)[~~(17)~~] "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;

(19)[~~(18)~~] "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(20)[~~(19)~~] "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(21)[~~(20)~~] "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as

evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(22)[~~(21)~~] "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23)[~~(22)~~] "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24)[~~(23)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25)[~~(24)~~] "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26)[~~(25)~~] "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27)[~~(26)~~] "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28)[~~(27)~~] "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29)[~~(28)~~] "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30)[~~(29)~~] "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31)[~~(30)~~] "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32)[~~(31)~~] "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(33)[~~(32)~~] "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34)[~~(33)~~] "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35)[~~(34)~~] ""Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(36)[~~(35)~~] Needs of the child" means necessary food, clothing, health, shelter, and education.

(37)[~~(36)~~] "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(38)[~~(37)~~] "Parent" means the biological or adoptive mother or father of a child;

(39)[~~(38)~~] "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(40)[~~(39)~~] "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(41)[~~(40)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

(42)[~~(41)~~] "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(43)[~~(42)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(44)~~[(43)]~~ "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(45)~~[(44)]~~ "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(46)~~[(45)]~~ "School personnel" means those certified persons under the supervision of the local public or private education agency;

(47)~~[(46)]~~ "Secretary" means the secretary of the Cabinet for Families and Children;

(48)~~[(47)]~~ "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(49)~~[(48)]~~ "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(50)~~[(49)]~~ "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(51)~~[(50)]~~ "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(52)~~[(51)]~~ "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

~~[(52) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;]~~

(53) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(54) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(55) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(56) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 610.265 is amended to read as follows:

(1) Any child who is ***alleged to be a child in need of services or who is*** accused of ***being in contempt of court on an underlying finding that the child is a child in need of services may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of*** committing a[~~ status or~~] public offense or of being in contempt of court ***on an underlying public offense*** may be detained in a secure juvenile detention facility or juvenile holding facility or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays ***pending a detention hearing***.

(2) (a) Within twenty-four (24) hours of the start of the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a ***detention*** hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders ***a***[~~the~~] child detained further ***after the detention hearing, that detention shall be served as follows:***[~~, and~~]

1. If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.

2. If it is alleged that the child is a child in need of services, detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.

3. If a child in need of services is charged with violating a valid court order, and the court orders the child to serve detention, that detention shall be served in a nonsecure setting approved by the Department of Juvenile Justice unless the court issues an order in accordance with the requirements of subparagraph 4. of this paragraph.

4. Prior to ordering a child in need of services who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:

a. Affirm that the requirements for a valid court order were met at the time the original order finding the child to be a child in need of services was issued;

b. Make a determination during the detention hearing that there is probably cause to believe that the child violated the valid court order; and

c. Within seventy-two (72) hours of the initial detention of the child, exclusive of weekends and holidays, receive an oral report in court and on the record delivered by an appropriate public agency other than the court or a law enforcement agency, or receive and review a written report prepared by an appropriate public agency other than the court or a law enforcement agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a sufficient prior written report is included in the child's file, that report may be used to satisfy this requirement. The child may be securely detained for a period not to exceed seventy-two (72) hours pending receipt and review of the report by the court. The court shall conduct a violation hearing upon receipt of the report. If the report is available at the time of the detention hearing, the violation hearing may be conducted at the same time as the detention hearing. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure detention of a child in need of services.

5. If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.

6. If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child[~~Any other child ordered to be detained in a state-operated facility pursuant to the statewide detention plan~~] shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.[~~ The security assessment shall be done at the facility where the juvenile is initially detained~~]

(c) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 3. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding ***children in need of services***~~[status offenders]~~:

(1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for ***children in need of services***~~[status offenders]~~ which reflect their individual needs;

(2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;

(3) ***Children in need of services shall not be detained***~~[Detention of status offenders]~~ in secure juvenile detention facilities or juvenile holding facilities ***after the initial detention hearing. Any period of secure detention prior to the detention hearing shall not exceed twenty-four (24) hours, exclusive of weekends and holidays;***~~[should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible; and]~~

(4) ***Children in need of services and children in need of services accused of violating a valid court order shall not be securely detained in intermittent holding facilities; and***

(5) ***Children in need of services accused of or found guilty of violating a valid court order***~~[Status offenders]~~ shall not be converted into public offenders by virtue of ***this***~~[status]~~ conduct.

Section 4. KRS 630.090 is amended to read as follows:

No alleged ***child in need of services***~~[status offender]~~ shall be ***securely detained after the initial detention hearing***~~[held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040(3) pending adjudication for a period exceeding ten (10) days after the detention hearing pursuant to KRS 630.070, unless waived by the child, and the court considers this waiver in his best interest. Under no circumstances shall a child be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver]~~.

Section 5. KRS 630.100 is amended to read as follows:

No adjudicated ***child in need of services***~~[status offender]~~ shall be ***securely detained***~~[held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the adjudicatory hearing, unless waived by the child and the court considers it in the child's best interest. A child shall not be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver]~~.

Section 6. KRS 630.120 is amended to read as follows:

(1) ***All dispositional hearings conducted under this chapter shall be conducted in accordance with the provisions of KRS 610.060 and 610.070. In addition, the court shall, at the time the dispositional order is issued***:

(a) ***Give the child adequate and fair warning of the consequences of the violation of the order; and***

(b) ***Provide the child and the child's attorney, parent, or legal guardian a written statement setting forth the conditions of the order and the consequences for violating the order.***

An order issued pursuant to this section is a valid court order and any child violating that order may be subject to the provisions of subsection (3) of KRS 630.080.~~[The general conduct of the dispositional hearings under this section relating to status offenders shall follow the procedures pursuant to KRS 610.070 and:]~~

(2) The court shall consider all appropriate local remedies to aid the child and ***the child's***~~[his]~~ family subject to the following conditions:

(a) Residential and nonresidential treatment programs for ***children in need of services***~~[status offenders]~~ shall be community-based and nonsecure; and

(b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.

(3)~~[(2)]~~At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, may be received by the court provided that the child, ***the child's***~~[his]~~ parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.

(4)~~[(3)]~~The court shall ***affirmatively***~~[first]~~ determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

(5)~~[(4)]~~The court may order the child and ***the child's***~~[his]~~ family to participate in any programs which are necessary to effectuate a change in the child and the family.

(6)~~[(5)]~~When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and ***the child's***~~[his]~~ family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the ***child***[~~youth~~] and ***the child's***[~~his~~] family subject to the following conditions:

(a) Treatment programs for ***children in need of services***[~~status offenders~~] shall be, unless excepted by federal law, community-based and nonsecure;

(b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;

(c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and

(d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 7. KRS 438.311 is amended to read as follows:

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, or from an employer when required in the performance of the person's duties.

(2) Violation of this section shall be punishable by a fine of fifty dollars ($50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars ($200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.

(3) ***A child adjudicated for committing*** this offense shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 8. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the department using a civil enforcement procedure for persons eighteen (18) years of age or older. ***A child adjudicated for committing this offense under eighteen (18) years of age***[~~For persons under the age of eighteen (18) years, the offense~~] shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 9. KRS 438.315 is amended to read as follows:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after July 15, 1994, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be administered by the department using a civil enforcement procedure for persons eighteen (18) years of age or older. ***A child***[~~For persons~~] under the age of eighteen (18) years, ***adjudicated for committing this***[~~the~~] offense shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(5) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation,

but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 10. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be ***children in need of services***~~[status offense]~~ actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.

(8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

(9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

(10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 11. KRS 610.015 is amended to read as follows:

(1) A child who is charged with an offense which classifies him for trial as an adult in the Circuit Court or the adult session of the District Court shall, at the time the decision is made by the court to try the child as an adult, be subject to the arrest, post-arrest, and criminal procedures that apply to an adult, except for the place of confinement, as provided in the Kentucky Revised Statutes and the Rules of Criminal Procedure.

(2) The Circuit Court shall try all misdemeanor, violation, traffic offense, and ***child in need of services***[~~status offense~~] matters included in or which arise from the act or series of acts which result in the trial of a child as an adult in the Circuit Court.

(3) Records, limited to the records of the present case in which the child has been charged, relating to a child charged under this section shall not be made public until after the child has been indicted and arraigned on the offense for trial of the child as an adult. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited.

(4) This section shall not be construed as permitting the release of the child's treatment, medical, mental, or psychological records unless those records are presented as evidence in open court. The release of information relative to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act is prohibited.

Section 12. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to ***a child in need of services***[~~status offenses~~], misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Families and Children or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 13. KRS 630.030 is amended to read as follows:

Under the provisions of this chapter a child may be taken into custody by any peace officer:

(1) Pursuant to an order of the court for failure to appear before the court for a previous ***child in need of services matter***[~~status offense~~]; or

(2) If there are reasonable grounds to believe that the child has been an habitual runaway from his parent or person exercising custodial control or supervision of the child.

Section 14. KRS 630.050 is amended to read as follows:

Before commencing any judicial proceedings on any complaint alleging ***that a child is in need of services***[~~the commission of a~~

~~status offense~~], the party or parties seeking such court action shall meet for a conference with a court designated worker for the express purpose of determining whether or not:

(1) To refer the matter to the court by assisting in the filing of a petition under KRS 610.020;

(2) To refer the child and his family to a public or private social service agency. The court designated worker shall make reasonable efforts to refer the child and his family to an agency before referring the matter to court; or

(3) To enter into a diversionary agreement.

Section 15. KRS 635.010 is amended to read as follows:

(1) In each District Court, the court-designated worker shall receive complaints alleging that a public offense has been committed. All cases governed by KRS Chapter 635 requiring Circuit Court action or 640 requiring Circuit Court action shall be set for arraignment. All other public offenses shall be proceeded against in accordance with the following:

(a) The county attorney shall cause a review to be made of each complaint. The purpose of this review shall be to determine from the available evidence whether there are reasonable grounds to believe that the alleged facts would constitute a public offense. The county attorney may elect not to proceed with the complaint and shall dismiss the complaint;

(b) In the event the county attorney elects to proceed, the court-designated worker shall make a preliminary determination as to whether the complaint is complete, consulting with the county attorney as may be necessary. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the complainant shall promptly thereafter furnish, additional information in order to complete the complaint. If the court-designated worker determines that the complaint is complete, he shall conduct a preliminary intake inquiry concerning such complaint to determine whether in the interest of justice the complaint can be resolved informally without the filing of a petition. The court-designated worker may recommend that a petition be filed. Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian or other person exercising custodial control or supervision of the child in writing:

1. Of their opportunity to be present at the preliminary intake inquiry;

2. Of their right to have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;

3. That their participation in the preliminary intake inquiry or any resulting plan of diversion is voluntary;

4. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child; and

5. That the child has the right to deny the charge and demand a formal court hearing;

(c) Upon the completion of the preliminary intake inquiry, the court-designated worker shall conduct a formal conference at which time he shall present information obtained at the preliminary intake inquiry to the child and the child's parents or other person exercising custodial control or supervision. The court-designated worker shall set forth in writing alternative referral programs available to the child and the criteria the court-designated worker used to determine whether to proceed with a diversionary agreement or whether to refer the matter for the filing of a public offense petition. If the court-designated worker determines that, in his judgment, the interests of the child and the public will be thereby best served, with the written approval of the county attorney he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review;

(d) The county attorney, upon receipt of a request for special review, shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before the county attorney makes a final decision as to whether a public offense petition shall or shall not be filed. In all cases in which the child is alleged to have committed a public offense and is not detained, the court-designated worker shall submit his written recommendation to the county attorney or designee within twenty (20) days, exclusive of weekends and holidays, from the date the child was taken into custody or the complaint was filed. In cases where the child is detained, the court-designated worker's report shall be submitted within seventy-two (72) hours of the time the child is ordered detained;

(e) In cases where the court-designated worker has recommended and the Commonwealth's attorney or county attorney, as appropriate, has consented in writing that a public offense petition not be filed and the complainant or victim, if any, or law enforcement agency having investigative jurisdiction of the offense has not called for a special review, said worker and the child may enter into a diversionary agreement. Such agreement may include the following: an informal plan of services provided by the court or its staff; referral of the child to a public or private organization, agency, or person to assist the child and the child's family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of KRS 635.080(2); restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; and other such programs or efforts which might reasonably benefit the community and the child. In assessing periods of community service to be performed and restitution to be paid by the youth who has entered into a diversion agreement, the court-designated worker shall, to the extent possible, involve members of the community. Such members of the community shall meet with the youth and advise the court-designated worker as to the terms of the diversionary agreement and shall supervise the youth in carrying out its terms. The diversionary agreement shall not cover a period in excess of six (6) months;

(f) If the terms of the agreement are successfully completed, the court-designated worker shall dispose of the complaint, the charges shall be considered dismissed and further prosecution is prohibited. In the event the child fails to comply with the terms of the agreement, the court-designated worker shall provide ten (10) days' written notice to the child and the child's parent or other person exercising custodial control or supervision and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court-designated worker shall meet and confer with the child and the child's parent or other person exercising custodial control and supervision and counsel to consider from the child's viewpoint why a petition should not be filed; and

(g) In the event that a complaint is not disposed of as a result of an agreement or in the event that the child fails to comply with the terms of an agreement and a petition is filed, the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. In the event that a petition is filed based upon the court-designated worker's determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with.

(2) In the event a public offense petition is filed, it shall be verified by information and belief and contain the information listed in KRS 610.020.

(3) The court-designated worker shall refer all felony case charges involving the use of a firearm to the Commonwealth's attorney and all other felony case charges to the county attorney for prosecution in the appropriate court. The court-designated worker may recommend to the county attorney the diversion of felony charges if those charges do not involve the use of a firearm. The county attorney, if he agrees, may transfer the matter to the court-designated worker for appropriate action and supervision.

(4) Except as provided in KRS 605.030 and 605.040, the court-designated worker shall refer all misdemeanor cases, violation cases, and motor vehicle traffic offense cases to the county attorney for prosecution in the appropriate court.

(5) Except as provided by KRS 605.030 and 605.040, the court-designated worker shall refer all ***children in need of services***[~~status offense~~] cases to the county attorney for prosecution in the appropriate court.

Section 16. KRS 635.083 is amended to read as follows:

(1) A juvenile convicted of or adjudged delinquent of three (3) or more offenses, other than violations or ***as a child in need of services***[~~status offenses~~], by the juvenile session of District Court, shall be retained under the jurisdiction and supervision of the court with regard to the commission of that offense until the child reaches the age of eighteen (18), except that if the child is convicted of or adjudged delinquent of a third or subsequent misdemeanor offense after the child reaches the age of seventeen (17) years and six (6) months, the court's jurisdiction and supervision shall continue for a period not to exceed one (1) year. This jurisdiction shall continue even after the service of incarceration or other court-ordered punishment in the form of conditional discharge. Violation of the terms and conditions of conditional discharge shall be punished as contempt of court.

(2) The provisions of this section shall not apply to adjudications of delinquency for more than one (1) misdemeanor arising from the same incident.

Section 17. KRS 645.120 is amended to read as follows:

(1) If, as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, a peace officer or any interested person may either take the child to a hospital, mental health facility, or another less restrictive alternative or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may place a child up to twenty-four (24) hours, excluding weekends and holidays, in a hospital or mental health facility or another less restrictive alternative. The peace officer shall notify the court designated worker of the child's placement. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital. No child held under this section shall be held in a secure juvenile detention facility or juvenile holding facility unless a ***child in need of services***[~~status offense~~] action or public offense action is also pending.

(2) On the basis of a prompt examination and any other available information concerning a child who is present at or

presented at a hospital, an authorized staff physician shall determine within twenty-four (24) hours if the child needs immediate hospitalization after which the child shall be released within seventy-two (72) hours unless the child is held pursuant to other provisions of this chapter.

(a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

(b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, the physician shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

(c) If the authorized staff physician determines the child does not need immediate hospitalization, the physician shall release the child to a parent, person exercising custodial control or supervision, or an agency having custody of the child and make whatever recommendations or referrals the physician deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within twenty-four (24) hours of the filing, exclusive of weekends and holidays, the court shall on an ex parte basis, which may be by telephone:

(a) Deny the petition; or

(b) Issue an order authorizing a peace officer to transport the child to a designated hospital or mental health facility for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. If the child is committed to the cabinet or will be treated by the cabinet, the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the child to a hospital or mental health facility. The cabinet shall pay the transportation costs of the child and the official transporting the child, both to and from the designated hospital or mental health facility, in accordance with an administrative regulation promulgated under KRS Chapter 13A. If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization, the child shall be released immediately and transported back to the child's home county by an appropriate means of transportation.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

Section 18. KRS 645.280 is amended to read as follows:

(1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility or juvenile holding facility unless a ***child in need of services***[~~status offense~~] action or public offense action is also pending. No peace officer or any other person shall bring a ***child in need of services***[~~status offense~~] action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive alternative.

(2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child ***is a child in need of services or*** has committed a[~~status offense or~~] public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.

Section 19. KRS 610.267 is amended to read as follows:

(1) Any other provision of KRS Chapters 600 to 645 to the contrary notwithstanding, any county or charter county may construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center shall be a nonsecure facility and shall be under the jurisdiction of the county jailer or a correctional services division established pursuant to KRS 67A.028.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility which houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a ***child in need of services***[~~status offender~~], public offender, or youthful offender.

(5) A judge shall not be required to house a juvenile in a youth alternative center if he believes that the youth alternative center lacks the security necessary for the detention of that particular juvenile. If the child requires a more secure facility, the judge may order his detention in a more appropriate facility authorized by law.

(6) The Department of Juvenile Justice shall promulgate administrative regulations relating to the construction, reconstruction, remodeling, and operations of youth alternative centers.

Section 20. KRS 17.125 is amended to read as follows:

(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:

(a) All sheriff's offices, police departments, and any other law enforcement agency;

(b) All Commonwealth's attorneys and county attorneys;

(c) The Attorney General;

(d) All jails and juvenile detention facilities, public and private;

(e) All courts and clerks of courts;

(f) The Administrative Office of the Courts;

(g) All departments within the Justice Cabinet; and

(h) All departments within the Cabinet for Families and Children and the Cabinet for Health Services.

(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.

(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to ***children in need of services***[~~status offenders~~], public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:

(a) Access or other restrictions imposed by federal or state law;

(b) All confidentiality restrictions imposed by federal or state law; and

(c) All disclosure and redisclosure restrictions imposed by federal or state law.

(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.

(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 21. KRS 15A.300 is amended to read as follows:

(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and ***children in need of services***[~~juvenile status offenses~~].

(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Social Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.

(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

(a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Social Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;

(b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;

(c) Sharing of information as authorized by law to carry out the interagency agreements;

(d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and

(e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.

(4) Training of council members shall be the responsibility of the department.

(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.

(6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:

(a) The formation of councils;
(b) The operation of councils;
(c) The duties of councils; and
(d) The administration and operation of the grant program.

Section 22. KRS 23A.110 is amended to read as follows:

(1) A chief judge of family court shall be designated by the Chief Justice at each site identified in KRS 23A.100(1). When a family court has a single family court judge, that judge shall be designated chief judge. Each family court shall establish a Family Court Council to assist in developing and implementing each new site. The council shall be multidisciplinary in nature and chaired by the chief judge of the family court. Each council shall recommend local rules of family court. Pursuant to Supreme Court Rule 1.040(3)(a), local rules shall be written, approved by the Chief Justice, and filed with the Supreme Court clerk.

(2) The Administrative Office of the Courts shall employ a statewide family court coordinator to assist family courts with:

(a) Resource needs;
(b) Standardization of policies;
(c) Practices and procedures;
(d) Training;
(e) Automation;
(f) Data compilation and analysis;
(g) Budgetary needs; and
(h) Coordination of family court sites with community and outside agencies.

(3) Family court jurisdiction shall include, but not be limited to, cases involving:

(a) Domestic or family issues or dissolution of marriage;
(b) Child custody;
(c) Visitation;
(d) Support and equitable distribution;
(e) Adoption and termination of parental rights;
(f) Domestic violence, including emergency protective orders;
(g) Noncriminal juvenile matters, including juvenile mental inquests and self-consent abortions;
(h) Paternity and URESA matters;
(i) Dependency, abuse, or neglect; and
(j) ***Children in need of services***[~~Status offenses~~], including truancy, unmanageable children, and runaways.

(4) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court and the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 23. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving ***children in need of services***[~~status offenses~~], public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Families and Children, the Justice Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 24. KRS 610.360 is amended to read as follows:

(1) Court costs commensurate with those in District or Circuit Court, as appropriate, shall be charged by the juvenile session of District Court against juveniles who ***are found to be children in need of services, or who*** are informally adjusted or found delinquent because of~~[status offenses or]~~ public offenses, and by the Circuit Court against juveniles who are found to be youthful offenders.

(2) Where possible, court costs shall be assessed against the child, but they may be assessed against the child's parent or legal guardian.

(3) Court costs shall not be assessed against a parent or guardian who is the complainant against the child or who has been the victim of the child's acts.

(4) In the case of children who have been committed, court costs shall not be assessed against the Department of Juvenile Justice or the cabinet.

(5) The court may require juveniles to pay court costs on the installment plan or in any other manner provided for fines by KRS Chapter 534 or to engage in community labor at state minimum wage rates to pay off their court costs. Labor to pay court costs shall be in addition to community labor ordered for other purposes.

Section 25. The following KRS sections are repealed:

610.250 Conditional releases.
630.110 Conduct of adjudicatory hearing.
630.130 Limitations on detention of status offender after disposition.

Section 26. In the event of a conflict between this Act and any other Act passed by the 2000 Regular Session of the General Assembly, the provisions of this Act shall prevail. The Reviser of Statutes shall change the term "status offender" to "child in need of services" or "children in need of services", as appropriate in any other Act passed by the 2000 Regular Session of the General Assembly.

The Committee Substitute No. 1 to **HB 297** is as follows:

HB 297, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Families and Children;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with

other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) ***"Child in need of services" means a child who is:***

- ***(a) A habitual runaway;***
- ***(b) A habitual truant;***
- ***(c) Beyond the control of parents;***
- ***(d) Beyond the control of school; or***
- ***(e) Found to have committed an offense, which would not be a crime if committed by an adult, provided that a child found to have violated a state statute or local ordinance such as a violation of curfew or possession of alcoholic beverages shall not be considered a child in need of services;***

(9) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(10)[~~(9)~~] "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(11)[~~(10)~~] "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(12)[~~(11)~~] "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(13)[~~(12)~~] "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(14)[~~(13)~~] "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(15)[~~(14)~~] "Deadly weapon" has the same meaning as it does in KRS 500.080;

(16)[~~(15)~~] "Department" means the Department for Social Services;

(17)[~~(16)~~] "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(18)[~~(17)~~] "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;

(19)[~~(18)~~] "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(20)[~~(19)~~] "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(21)[~~(20)~~] "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(22)[~~(21)~~] "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide,

under its supervision, services to families and children;

(23)[~~(22)~~] "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24)[~~(23)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25)[~~(24)~~] "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26)[~~(25)~~] "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27)[~~(26)~~] "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28)[~~(27)~~] "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29)[~~(28)~~] "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30)[~~(29)~~] "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31)[~~(30)~~] "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32)[~~(31)~~] "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(33)[~~(32)~~] "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34)[~~(33)~~] "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35)[~~(34)~~] ""Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(36)[~~(35)~~] Needs of the child" means necessary food, clothing, health, shelter, and education.

(37)[~~(36)~~] "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(38)[~~(37)~~] "Parent" means the biological or adoptive mother or father of a child;

(39)[~~(38)~~] "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(40)[~~(39)~~] "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(41)[~~(40)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

(42)[~~(41)~~] "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(43)[~~(42)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter

319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(44)[~~(43)~~] "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(45)[~~(44)~~] "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(46)[~~(45)~~] "School personnel" means those certified persons under the supervision of the local public or private education agency;

(47)[~~(46)~~] "Secretary" means the secretary of the Cabinet for Families and Children;

(48)[~~(47)~~] "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(49)[~~(48)~~] "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(50)[~~(49)~~] "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(51)[~~(50)~~] "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(52)[~~(51)~~] "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

[~~(52) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;~~]

(53) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(54) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(55) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(56) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 610.265 is amended to read as follows:

(1) Any child who is ***alleged to be a child in need of services or who is*** accused of committing a[~~ status or~~] public offense or of being in contempt of court may be detained in a secure juvenile detention facility or juvenile holding facility or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays.

(2) (a) Within twenty-four (24) hours of the start of the period of detention described in subsection (1) of this section,

exclusive of weekends and holidays, a hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders the child detained further, and if the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance. Any other child ordered to be detained in a state-operated facility pursuant to the statewide detention plan shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained.

(c) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult.

Section 3. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding ***children in need of services***[~~status offenders~~]:

(1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for ***children in need of services***[~~status offenders~~] which reflect their individual needs;

(2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;

(3) Detention of ***children in need of services***[~~status offenders~~] in secure juvenile detention facilities or juvenile holding facilities should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible; and

(4) ***Children in need of services accused of or found guilty of violating a valid court order***[~~Status offenders~~] shall not be converted into public offenders by virtue of ***this***[~~status~~] conduct.

Section 4. KRS 630.090 is amended to read as follows:

No alleged ***child in need of services***[~~status offender~~] shall be held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040(3) pending adjudication for a period exceeding ten (10) days after the detention hearing pursuant to KRS 630.070, unless waived by the child, and the court considers this waiver in his best interest. Under no circumstances shall a child be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver.

Section 5. KRS 630.100 is amended to read as follows:

No adjudicated ***child in need of services***[~~status offender~~] shall be held in a secure juvenile detention facility or juvenile holding facility as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the adjudicatory hearing, unless waived by the child and the court considers it in the child's best interest. A child shall not be held in a secure juvenile detention facility or juvenile holding facility more than ten (10) days after the exercise of this waiver.

Section 6. KRS 630.120 is amended to read as follows:

The general conduct of the dispositional hearings under this section relating to ***children in need of services***[~~status offenders~~] shall follow the procedures pursuant to KRS 610.070 and:

(1) The court shall consider all appropriate local remedies to aid the child and ***the child's***[~~his~~] family subject to the following conditions:

  (a) Residential and nonresidential treatment programs for ***children in need of services***[~~status offenders~~] shall be community-based and nonsecure; and

  (b) With the approval of the education agency, the court may place the child in a nonsecure public or private education agency accredited by the Department of Education.

(2) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports, may be received by the court provided that the child, ***the child's***[~~his~~] parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause, the court may allow the admission of hearsay evidence.

(3) The court shall first determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

(4) The court may order the child and ***the child's***[~~his~~] family to participate in any programs which are necessary to effectuate a change in the child and the family.

(5) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the

child and ***the child's***[~~his~~] family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the ***child***[~~youth~~] and ***the child's***[~~his~~] family subject to the following conditions:

(a) Treatment programs for ***children in need of services***[~~status offenders~~] shall be, unless excepted by federal law, community-based and nonsecure;

(b) The cabinet may place the child in a nonsecure public or private education agency accredited by the department of education;

(c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and

(d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court which may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 7. KRS 438.311 is amended to read as follows:

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, or from an employer when required in the performance of the person's duties.

(2) Violation of this section shall be punishable by a fine of fifty dollars ($50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars ($200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.

(3) ***A child adjudicated for committing*** this offense shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 8. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the department using a civil enforcement procedure for persons eighteen (18) years of age or older. ***A child adjudicated for committing this offense under eighteen (18) years of age***[~~For persons under the age of eighteen (18) years, the offense~~] shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 9. KRS 438.315 is amended to read as follows:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after July 15, 1994, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be administered by the department using a civil enforcement procedure for persons eighteen (18) years of age or older. ***A child***[~~For persons~~] under the age of eighteen (18) years, ***adjudicated for committing this***[~~the~~] offense shall be deemed a ***child in need of services***[~~status offense~~] and shall be under the jurisdiction of the juvenile session of the District Court.

(5) All peace officers with general law enforcement authority and employees of the department may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 10. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be ***children in need of services***~~[status offense]~~ actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.

(8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

(9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

(10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to

amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 11. KRS 610.015 is amended to read as follows:

(1) A child who is charged with an offense which classifies him for trial as an adult in the Circuit Court or the adult session of the District Court shall, at the time the decision is made by the court to try the child as an adult, be subject to the arrest, post-arrest, and criminal procedures that apply to an adult, except for the place of confinement, as provided in the Kentucky Revised Statutes and the Rules of Criminal Procedure.

(2) The Circuit Court shall try all misdemeanor, violation, traffic offense, and ***child in need of services***[~~status offense~~] matters included in or which arise from the act or series of acts which result in the trial of a child as an adult in the Circuit Court.

(3) Records, limited to the records of the present case in which the child has been charged, relating to a child charged under this section shall not be made public until after the child has been indicted and arraigned on the offense for trial of the child as an adult. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited.

(4) This section shall not be construed as permitting the release of the child's treatment, medical, mental, or psychological records unless those records are presented as evidence in open court. The release of information relative to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act is prohibited.

Section 12. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to ***a child in need of services***[~~status offenses~~], misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Families and Children or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

  (a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

  (b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 13. KRS 630.030 is amended to read as follows:

Under the provisions of this chapter a child may be taken into custody by any peace officer:

(1) Pursuant to an order of the court for failure to appear before the court for a previous ***child in need of services matter***[~~status offense~~]; or

(2) If there are reasonable grounds to believe that the child has been an habitual runaway from his parent or person exercising custodial control or supervision of the child.

Section 14. KRS 630.050 is amended to read as follows:

Before commencing any judicial proceedings on any complaint alleging ***that a child is in need of services***~~[the commission of a status offense]~~, the party or parties seeking such court action shall meet for a conference with a court designated worker for the express purpose of determining whether or not:

(1) To refer the matter to the court by assisting in the filing of a petition under KRS 610.020;

(2) To refer the child and his family to a public or private social service agency. The court designated worker shall make reasonable efforts to refer the child and his family to an agency before referring the matter to court; or

(3) To enter into a diversionary agreement.

Section 15. KRS 635.010 is amended to read as follows:

(1) In each District Court, the court-designated worker shall receive complaints alleging that a public offense has been committed. All cases governed by KRS Chapter 635 requiring Circuit Court action or 640 requiring Circuit Court action shall be set for arraignment. All other public offenses shall be proceeded against in accordance with the following:

(a) The county attorney shall cause a review to be made of each complaint. The purpose of this review shall be to determine from the available evidence whether there are reasonable grounds to believe that the alleged facts would constitute a public offense. The county attorney may elect not to proceed with the complaint and shall dismiss the complaint;

(b) In the event the county attorney elects to proceed, the court-designated worker shall make a preliminary determination as to whether the complaint is complete, consulting with the county attorney as may be necessary. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the complainant shall promptly thereafter furnish, additional information in order to complete the complaint. If the court-designated worker determines that the complaint is complete, he shall conduct a preliminary intake inquiry concerning such complaint to determine whether in the interest of justice the complaint can be resolved informally without the filing of a petition. The court-designated worker may recommend that a petition be filed. Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian or other person exercising custodial control or supervision of the child in writing:

1. Of their opportunity to be present at the preliminary intake inquiry;

2. Of their right to have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;

3. That their participation in the preliminary intake inquiry or any resulting plan of diversion is voluntary;

4. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child; and

5. That the child has the right to deny the charge and demand a formal court hearing;

(c) Upon the completion of the preliminary intake inquiry, the court-designated worker shall conduct a formal conference at which time he shall present information obtained at the preliminary intake inquiry to the child and the child's parents or other person exercising custodial control or supervision. The court-designated worker shall set forth in writing alternative referral programs available to the child and the criteria the court-designated worker used to determine whether to proceed with a diversionary agreement or whether to refer the matter for the filing of a public offense petition. If the court-designated worker determines that, in his judgment, the interests of the child and the public will be thereby best served, with the written approval of the county attorney he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review;

(d) The county attorney, upon receipt of a request for special review, shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before the county attorney makes a final decision as to whether a public offense petition shall or shall not be filed. In all cases in which the child is alleged to have committed a public offense and is not detained, the court-designated worker shall submit his written recommendation to the county attorney or designee within twenty (20) days, exclusive of weekends and holidays, from the date the child was taken into custody or the complaint was filed. In cases where the child is detained, the court-designated worker's report shall be submitted within seventy-two (72) hours of the time the child is ordered detained;

(e) In cases where the court-designated worker has recommended and the Commonwealth's attorney or county attorney, as appropriate, has consented in writing that a public offense petition not be filed and the complainant or victim, if any, or law enforcement agency having investigative jurisdiction of the offense has not called for a special review, said worker and the child may enter into a diversionary agreement. Such agreement may include the following: an informal plan of services provided by the court or its staff; referral of the child to a public or private organization, agency, or person to assist the child and the child's family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of KRS 635.080(2); restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; and other such programs or efforts which might reasonably benefit the community and the child. In assessing periods of community service to be performed and restitution to be paid by the youth who has entered into a diversion agreement, the court-designated worker shall, to the extent possible, involve members of the community. Such members of the community shall meet with the youth and advise the court-designated worker as to the terms of the diversionary agreement and shall supervise the youth in carrying out its terms. The diversionary agreement shall not cover a period in excess of six (6) months;

(f) If the terms of the agreement are successfully completed, the court-designated worker shall dispose of the complaint, the charges shall be considered dismissed and further prosecution is prohibited. In the event the child fails to comply with the terms of the agreement, the court-designated worker shall provide ten (10) days' written notice to the child and the child's parent or other person exercising custodial control or supervision and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court-designated worker shall meet and confer with the child and the child's parent or other person exercising custodial control and supervision and counsel to consider from the child's viewpoint why a petition should not be filed; and

(g) In the event that a complaint is not disposed of as a result of an agreement or in the event that the child fails to comply with the terms of an agreement and a petition is filed, the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. In the event that a petition is filed based upon the court-designated worker's determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with.

(2) In the event a public offense petition is filed, it shall be verified by information and belief and contain the information listed in KRS 610.020.

(3) The court-designated worker shall refer all felony case charges involving the use of a firearm to the Commonwealth's attorney and all other felony case charges to the county attorney for prosecution in the appropriate court. The court-designated worker may recommend to the county attorney the diversion of felony charges if those charges do not involve the use of a firearm. The county attorney, if he agrees, may transfer the matter to the court-designated worker for appropriate action and supervision.

(4) Except as provided in KRS 605.030 and 605.040, the court-designated worker shall refer all misdemeanor cases, violation cases, and motor vehicle traffic offense cases to the county attorney for prosecution in the appropriate court.

(5) Except as provided by KRS 605.030 and 605.040, the court-designated worker shall refer all ***children in need of services***[~~status offense~~] cases to the county attorney for prosecution in the appropriate court.

Section 16. KRS 635.083 is amended to read as follows:

(1) A juvenile convicted of or adjudged delinquent of three (3) or more offenses, other than violations or ***as a child in need of services***[~~status offenses~~], by the juvenile session of District Court, shall be retained under the jurisdiction and supervision of the court with regard to the commission of that offense until the child reaches the age of eighteen (18), except that if the child is convicted of or adjudged delinquent of a third or subsequent misdemeanor offense after the child reaches the age of seventeen (17) years and six (6) months, the court's jurisdiction and supervision shall continue for a period not to exceed one (1) year. This jurisdiction shall continue even after the service of incarceration or other court-ordered punishment in the form of conditional discharge. Violation of the terms and conditions of conditional discharge shall be punished as contempt of court.

(2) The provisions of this section shall not apply to adjudications of delinquency for more than one (1) misdemeanor arising from the same incident.

Section 17. KRS 645.120 is amended to read as follows:

(1) If, as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, a peace officer or any interested person may either take the child to a hospital, mental health facility, or another less restrictive alternative or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may place a child up to twenty-four (24) hours, excluding weekends and holidays, in a hospital or mental health facility or another less restrictive alternative. The peace officer shall notify the court designated worker of the child's placement. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital. No child held under this section shall be held in a secure juvenile detention facility or juvenile holding facility unless a ***child in need of services***[~~status offense~~] action or public offense action is also pending.

(2) On the basis of a prompt examination and any other available information concerning a child who is present at or presented at a hospital, an authorized staff physician shall determine within twenty-four (24) hours if the child needs immediate hospitalization after which the child shall be released within seventy-two (72) hours unless the child is held pursuant to other provisions of this chapter.

(a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

(b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, the physician shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

(c) If the authorized staff physician determines the child does not need immediate hospitalization, the physician shall release the child to a parent, person exercising custodial control or supervision, or an agency having custody of the child and make whatever recommendations or referrals the physician deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within twenty-four (24) hours of the filing, exclusive of weekends and holidays, the court shall on an ex parte basis, which may be by telephone:

(a) Deny the petition; or

(b) Issue an order authorizing a peace officer to transport the child to a designated hospital or mental health facility for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. If the child is committed to the cabinet or will be treated by the cabinet, the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the child to a hospital or mental health facility. The cabinet shall pay the transportation costs of the child and the official transporting the child, both to and from the designated hospital or mental health facility, in accordance with an administrative regulation promulgated under KRS Chapter 13A. If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization, the child shall be released immediately and transported back to the child's home county by an appropriate means of transportation.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

Section 18. KRS 645.280 is amended to read as follows:

(1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility or juvenile holding facility unless a ***child in need of services***[~~status offense~~] action or public offense action is also pending. No peace officer or any other person shall bring a ***child in need of services***[~~status offense~~] action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive alternative.

(2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child ***is a child in need of services or*** has committed a[~~status offense or~~] public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.

Section 19. KRS 610.267 is amended to read as follows:

(1) Any other provision of KRS Chapters 600 to 645 to the contrary notwithstanding, any county or charter county may construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center shall be a nonsecure facility and shall be under the jurisdiction of the county jailer or a correctional services division established pursuant to KRS 67A.028.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility which houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a ***child in need of services***[~~status offender~~], public offender, or youthful offender.

(5) A judge shall not be required to house a juvenile in a youth alternative center if he believes that the youth alternative center lacks the security necessary for the detention of that particular juvenile. If the child requires a more secure facility, the judge may order his detention in a more appropriate facility authorized by law.

(6) The Department of Juvenile Justice shall promulgate administrative regulations relating to the construction,

reconstruction, remodeling, and operations of youth alternative centers.

Section 20. KRS 17.125 is amended to read as follows:

(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:

(a) All sheriff's offices, police departments, and any other law enforcement agency;
(b) All Commonwealth's attorneys and county attorneys;
(c) The Attorney General;
(d) All jails and juvenile detention facilities, public and private;
(e) All courts and clerks of courts;
(f) The Administrative Office of the Courts;
(g) All departments within the Justice Cabinet; and
(h) All departments within the Cabinet for Families and Children and the Cabinet for Health Services.

(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.

(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to ***children in need of services***[~~status offenders~~], public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:

(a) Access or other restrictions imposed by federal or state law;
(b) All confidentiality restrictions imposed by federal or state law; and
(c) All disclosure and redisclosure restrictions imposed by federal or state law.

(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.

(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 21. KRS 15A.300 is amended to read as follows:

(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and ***children in need of services***[~~juvenile status offenses~~].

(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department for Social Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.

(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:

(a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Social Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;
(b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;
(c) Sharing of information as authorized by law to carry out the interagency agreements;
(d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and
(e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective

obligations under the agreement.

(4) Training of council members shall be the responsibility of the department.

(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.

(6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:
- (a) The formation of councils;
- (b) The operation of councils;
- (c) The duties of councils; and
- (d) The administration and operation of the grant program.

Section 22. KRS 23A.110 is amended to read as follows:

(1) A chief judge of family court shall be designated by the Chief Justice at each site identified in KRS 23A.100(1). When a family court has a single family court judge, that judge shall be designated chief judge. Each family court shall establish a Family Court Council to assist in developing and implementing each new site. The council shall be multidisciplinary in nature and chaired by the chief judge of the family court. Each council shall recommend local rules of family court. Pursuant to Supreme Court Rule 1.040(3)(a), local rules shall be written, approved by the Chief Justice, and filed with the Supreme Court clerk.

(2) The Administrative Office of the Courts shall employ a statewide family court coordinator to assist family courts with:
- (a) Resource needs;
- (b) Standardization of policies;
- (c) Practices and procedures;
- (d) Training;
- (e) Automation;
- (f) Data compilation and analysis;
- (g) Budgetary needs; and
- (h) Coordination of family court sites with community and outside agencies.

(3) Family court jurisdiction shall include, but not be limited to, cases involving:
- (a) Domestic or family issues or dissolution of marriage;
- (b) Child custody;
- (c) Visitation;
- (d) Support and equitable distribution;
- (e) Adoption and termination of parental rights;
- (f) Domestic violence, including emergency protective orders;
- (g) Noncriminal juvenile matters, including juvenile mental inquests and self-consent abortions;
- (h) Paternity and URESA matters;
- (i) Dependency, abuse, or neglect; and
- (j) ***Children in need of services***[~~Status offenses~~], including truancy, unmanageable children, and runaways.

(4) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court and the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 23. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving ***children in need of services***[~~status offenses~~], public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Families and Children, the Justice Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 24. KRS 610.360 is amended to read as follows:

(1) Court costs commensurate with those in District or Circuit Court, as appropriate, shall be charged by the juvenile session of District Court against juveniles who ***are found to be children in need of services, or who*** are informally adjusted or found delinquent because of~~[status offenses or]~~ public offenses, and by the Circuit Court against juveniles who are found to be youthful offenders.

(2) Where possible, court costs shall be assessed against the child, but they may be assessed against the child's parent or legal guardian.

(3) Court costs shall not be assessed against a parent or guardian who is the complainant against the child or who has been the victim of the child's acts.

(4) In the case of children who have been committed, court costs shall not be assessed against the Department of Juvenile Justice or the cabinet.

(5) The court may require juveniles to pay court costs on the installment plan or in any other manner provided for fines by KRS Chapter 534 or to engage in community labor at state minimum wage rates to pay off their court costs. Labor to pay court costs shall be in addition to community labor ordered for other purposes.

Section 25. In the event of a conflict between this Act and any other Act passed by the 2000 Regular Session of the General Assembly, the provisions of this Act shall prevail. The Reviser of Statutes shall change the term "status offender" to "child in need of services" or "children in need of services," as appropriate in any other Act passed by the 2000 Regular Session of the General Assembly.

HB 762, AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall include the following provisions in all Medicaid managed-care contracts to improve access to culturally competent care for medical assistance recipients:

- ***(a) Medical care shall be provided to all medical assistance recipients in the same manner using the same standards and the same priority as non-Medicaid enrollees in the contractor's plan under private or group contracts although the delivery sites, covered services, and provider payment may vary;***
- ***(b) Measures shall be implemented to increase access to health care for the minority, racial, or ethnic groups to be served;***
- ***(c) Access to specialists shall not be dependent on the selection of a specific primary-care provider within the provider network of the contractor's plan;***
- ***(d) Policies shall be developed that address the health-care needs of the minority, racial, or ethnic groups to be served;***
- ***(e) Medical assistance recipients shall not be segregated from other patients based solely on race, ethnic group, or cultural background;***
- ***(f) Educational literature and policies shall be provided in the language of the medical assistance recipients and disseminated in a manner to ensure receipt by the medical assistance recipients;***
- ***(g) Payment rates to physicians who are members of minority, racial, or ethnic groups shall be at least equal to other physicians in the provider network providing the same service;***
- ***(h) The composition of the contractor's staff shall be representative of the minority, racial, or ethnic background of the medical assistance recipients to be served;***
- ***(i) The provider network for medical assistance recipients shall not be separate from the network for the contractor's private plan or group plans;***
- ***(j) Outreach activities shall be implemented to increase enrollment of minority, racial, and ethnic group members;***
- ***(k) Prevention of diseases that have a high incidence among the minority, racial, or ethnic groups to be served shall be included in the services provided; and***
- ***(l) Data shall be collected on the enrollment, access, and utilization of services based on minority, racial, and ethnic groups.***

(2) The cabinet shall monitor all Medicaid managed-care contractors, their subcontractors, and providers for any conduct, policies, or practices that have the potential to have a discriminatory effect on medical assistance recipients.

(3) Failure to comply with the provisions of this section may be grounds for termination for cause of a Medicaid contract or subcontract.

(4) Data collected under subsection (1) of this section shall be reviewed by the cabinet and a report submitted to the

Legislative Research Commission prior to September 1, 2001, and annually thereafter.

(5) Each Medicaid managed-care contractor shall assess the linguistic and cultural needs of their medical assistance recipients who speak a primary language other than English. The findings of the assessment shall be submitted to the Department for Medicaid Services along with a plan to meet the cultural and linguistic needs of the groups to be served. The plan shall be approved by the Department for Medicaid Services prior to implementation. The department shall submit a copy of the approved plan to the Legislative Research Commission by September 1, 2001, and annually thereafter.

Section 2. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) *"Culturally competent care" means medical care provided in a manner that is sensitive to the cultural values, beliefs, and practices of the patient and includes an acceptance and respect for cultural differences and similarities within, between, and among groups and an understanding of how these differences influence health-care needs and relationships with patients;*

(3) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(4)[~~(3)~~]"Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(5)[~~(4)~~]"Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(6)[~~(5)~~]"Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(7)[~~(6)~~]"Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(8)[~~(7)~~]"Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(9)[~~(8)~~]"Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(10)[~~(9)~~] "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(11)[~~(10)~~] "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(12)[~~(11)~~] "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(13)[~~(12)~~] "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;

(14)[~~(13)~~] "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;

(15)[~~(14)~~] "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.

The Committee Substitute No. 1 to **HB 762** is as follows:

HB 762, AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall include nondiscrimination standards for Medicaid providers and contractors in all Medicaid managed-care or other contracts to ensure nondiscrimination in the provision of health-care services that are sensitive to and respectful of Medicaid recipients' culture:

(a) Health providers shall take all necessary actions to ensure that all members have access to covered services. Health providers shall be prohibited from the following practices that include, but are not limited to:

1. Denying or not providing to any member access to any medically necessary covered service or facility; and

2. Subjecting a member to segregated or separate treatment in any manner related to the provision of covered services;

(b) Contractors providing services to Medicaid recipients shall be prohibited from the following practices that include, but are not limited to:

1. Selectively marketing services or avoiding certain neighborhoods by not developing provider networks in high-risk locations;

2. Seeking to control access to services by excluding providers who attract certain types of patients;

3. Reimbursing physicians who are members of minority, racial, or ethnic groups at a different rate from other physicians in the provider network providing the same service; and

4. Denying access to specialists within the network dependent on the selection of a specific primary-care provider within the provider network of the contractor's plan;

(c) Outreach activities implemented to increase the enrollment of beneficiaries shall include activities directed to minority, racial, or ethnic group members;

(d) Prevention of diseases that have a high incidence among the minority, racial, or ethnic groups to be served shall be included in the services provided; and

(e) Data may be collected on the enrollment, access, and utilization of services based on minority, racial, or ethnic groups.

(2) Medicaid contractors shall develop provider networks to accommodate the racial and ethnic composition of enrollees to ensure that networks include providers who are capable of providing culturally appropriate care to Medicaid members.

(3) Medicaid contractors and subcontractors shall develop specific written policy statements regarding nondiscrimination in the provision of culturally appropriate care.

(4) Medicaid recipients may submit grievances to the Medicaid contractor or the Cabinet for Health Services on any alleged discrimination. Upon the receipt of a grievance alleging discrimination, the Cabinet for Health Services shall complete a hearing and issue a finding based upon testimony by all parties.

(5) If any Medicaid contractor knowingly executes a subcontract with any provider with the intent of allowing or permitting the subcontractor to discriminate, the Medicaid contractor shall be in default of its contract with the Department for Medicaid Services. If the Medicaid contractor becomes aware of any of its existing subcontractor's failure to comply with this section and does not take action to ensure compliance within thirty (30) days, the Medicaid contractor shall be in default of its contract with the Department for Medicaid Services.

(6) Failure to comply with the provisions of this section may be grounds for termination for cause of a Medicaid contract or subcontract.

(7) Data collected under subsection (1) of this section shall be reviewed by the cabinet and a report submitted to the Legislative Research Commission prior to September 1, 2001, and annually thereafter.

Section 2. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(4) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(9) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(10) "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(11) "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;

(13) "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;

(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.

(15) "Nondiscrimination standards for Medicaid providers and contractors" means that medical care and health services to all Medicaid recipients shall be provided in a manner to ensure equitable access and consideration for covered services without exclusionary practices of providers or system design. Health-care providers shall address the special needs of enrollees by honoring recipient's beliefs, being sensitive to cultural diversity, and fostering providers' and their staffs' attitudes and interpersonal communication styles which respect recipients' cultural backgrounds.

HB 980, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term-care facilities, such facilities shall take the following actions:

(1) Every long-term-care facility shall conspicuously post throughout the facility a listing of the residents' rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term-care facility shall develop and implement a mechanism which will allow each resident and the responsible party or his responsible family member or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) ***Every long-term facility shall develop a written policy on the acceptance of gifts with a value of more than twenty-five dollars ($25), whether by will and testament or otherwise, from residents by any employee or administrator of the facility.***

(4) All long-term-care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and the responsible party or his responsible family member or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(5)~~[(4)]~~Every long-term-care facility shall prepare a written plan and provide appropriate staff training to implement each of the residents' rights as defined in KRS 216.515 to 216.525.

(6)~~[(5)]~~All long-term-care facilities shall maintain in their facilities one (1) copy of the most recent inspection report as prepared by the Cabinet for Health Services. The cabinet shall provide all long-term-care facilities with one (1) copy of the most recent inspection report.

Section 2. KRS 216.543 is amended to read as follows:

(1) Every long-term care facility shall post in a conspicuous place, accessible to residents, employees and visitors the following:

(a) A copy of the long-term care facility's current license;

(b) The name, address, and current telephone number of the current long-term care ombudsman in the cabinet;

(c) A copy of the statement required by subsection (1) of KRS 216.545;~~[and]~~

(d) A list of the material available for public inspection required by KRS 216.547***; and***

(e) A copy of the facility's policy regarding the acceptance of gifts with a value of twenty-five dollars ($25) or more, whether by will and testament or otherwise, from a resident by an employee or administrator of the facility.

(2) Every long-term care facility shall post within ten (10) feet of the front reception desk and in a prominent place easily seen by residents, employees, and visitors a printed sign at least eight (8) inches by eleven (11) inches in size, with letters at least one (1) inch high, that states: "State law (KRS 216.547) requires state inspection reports on this facility to be made available to you upon request. ASK A REPRESENTATIVE OF THIS FACILITY."

HB 1012, AN ACT relating to breast-feeding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that breast-feeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values. This section is enacted with the expressed legislative intention of recognizing that a woman's choice to breast-feed benefits the family, the employer, and society.

(2) As used in this section, "department" means the Department for Public Health.

(3) A mother may breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be.

(4) A person commits a violation of interference with the right of a woman to breast-feed a child if the person intentionally prevents or restricts a woman from breast-feeding a child in any location, public or private, where the mother is otherwise authorized to be.

(5) A business or agency may use the designation "mother-friendly" in its promotional materials if the business or agency develops a policy supporting the practice of worksite breast-feeding that addresses the following:

(a) Work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;

(b) The provision of accessible locations allowing privacy;

(c) Access nearby to a clean, safe water source, and a sink for washing hands and rinsing out any needed breast-pumping equipment; and

(d) Access to hygienic storage alternatives in the workplace for the mother's breast milk.

(6) The business or agency shall submit its breast-feeding policy to the department. The department shall maintain a list of "mother-friendly" businesses and agencies covered under this section and shall make the list available for public inspection.

(7) A state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with infants.

(8) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a regional incentive program for facilities providing maternity services or newborn infant care for increasing the proportion of mothers served who breast-feed their babies. The incentive program shall include annual statewide recognition for facilities having the highest proportion of mothers breast-feeding in each region.

(9) The department shall provide information and assistance to a facility lawfully providing maternity services or newborn infant care on how to comply with the requirements developed by the United States Department of Health and Human Services in accordance with UNICEF and World Health Organization baby-friendly hospital initiatives and to receive the designation "baby-friendly."

(10) The department may include a program of lactation support services as part of the benefits and services provided for pregnant and breast-feeding participants in the Women, Infants, and Children Nutrition Program. The program may include payment for breast pumps, breast shields, or any supply deemed essential for the successful maintenance of lactation, as well as lactation specialists who are registered nurses, licensed dietitians, or persons who have successfully completed a lactation management training program.

(11) The department shall coordinate the operation of the Women, Infants, and Children program with the Department for Medicaid Services by interagency agreement whereby each department provides information about the services offered by the other to applicants for services.

Section 2. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has

been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

(8) A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(9) Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(10) The penalties provided in subsections (6), (7), (8), and (9) of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(11) Any person who violates any provisions of KRS 211.760 ***or Section 1 of this Act*** shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

The Committee Substitute No. 1 to **HB 1012** is as follows:

HB 1012, AN ACT relating to breast-feeding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that breast-feeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values. This section is enacted with the expressed legislative intention of encouraging mothers to consider the benefits of breast-feeding as a choice that enhances their own health and the health of babies.

(2) As used in this section, "department" means the Department for Public Health.

(3) A mother may breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be.

(4) A business or agency may use the designation "mother-friendly" in its promotional materials if the business or agency develops a policy supporting the practice of worksite breast-feeding that addresses the following:

(a) Work schedule flexibility, including scheduling breaks and work patterns to provide time for expression of milk;

(b) The provision of accessible locations allowing privacy;

(c) Access nearby to a clean, safe water source, and a sink for washing hands and rinsing out any needed breast-pumping equipment; and

(d) Access to hygienic storage alternatives in the workplace for the mother's breast milk.

(5) The business or agency may submit its breast-feeding policy to the department. The department may maintain a list of "mother-friendly" businesses and agencies covered under this section and make the list available for public inspection.

(6) A state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with babies.

(7) The department shall annually publish statistical information related to breast-feeding beginning in fiscal year 2002-2003. The information shall include data on facilities providing maternity services or baby care having the highest proportion of mothers breast-feeding in each region.

(8) The department may provide information on the Baby-Friendly Hospital Initiative.

(9) The department may include a program of lactation support services as part of the benefits and services provided for pregnant and breast-feeding participants in the Women, Infants, and Children Nutrition Program. The program may include payment for breast pumps or any supply deemed essential for the successful maintenance of lactation, as well as a lactation specialist who is a registered nurse, a licensed dietitian, an International Board Certified lactation consultant, or a person who has successfully completed a lactation management training program.

(10) The department shall coordinate the operation of the Women, Infants, and Children program with the Department for Medicaid Services whereby each department provides information about the services offered by the other to applicants for services.

HR 150, A RESOLUTION urging the creation of a Special Trust Fund for the purpose of enhancing professional development of Spouse Abuse Center and Rape Crisis Center staff.

WHEREAS, the Office of the Attorney General, in conjunction with forty-nine other states, has secured an antitrust settlement from Nine West Corporation; and

WHEREAS, in accordance with the United States District Court Order, these funds must be utilized to fund women's health, educational, vocational, or safety programs pursuant to the terms of the settlement; and

WHEREAS, these funds cannot be utilized to supplant any existing funds appropriated for domestic violence and rape crisis services under the terms of the settlement; and

WHEREAS, every year, Rape Crisis Centers and Spouse Abuse Centers provide services to over 30,000 families victimized by violence; and

WHEREAS, a high level of skill is needed for center staff who intervene with families at a time of extreme crisis; and

WHEREAS, on a daily basis, center staff are faced with decisions that impact the safety and well-being of victims of crime and their children; and

WHEREAS, specialized training programs, tailored uniquely for Spouse Abuse Centers and Rape Crisis Centers, need to be developed to enhance their ability to operate effectively and meet the needs of families in crisis; and

WHEREAS, the ability of the Spouse Abuse Centers and Rape Crisis Centers to extend professional development opportunities to staff to meet the challenges inherent in their work is hampered by limited funding; and

WHEREAS, low salaries and the lack of professional development opportunities result in a high turnover rate of staff in these agencies, reaching over fifty percent in Spouse Abuse Centers; and

WHEREAS, an important component of enhanced professional development includes providing existing center personnel with opportunities to pursue higher education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Special Trust Fund should be established from the settlement to be administered by the Finance and Administration Cabinet for the express purpose of supporting professional development initiatives for the Rape Crisis Centers and Spouse Abuse Centers in Kentucky. The Governor's Council on Domestic Violence and Sexual Assault is urged to allocate funds for the purposes set forth in this Resolution. Interest income from the principal of the Special Trust Fund should be used for the following purposes:

(a) Establish an annual professional development institute, unique in the nation, specially tailored to meet the unique job-related challenges of staff in Rape Crisis Centers and Spouse Abuse Centers.

(b) Create and fund accessible training opportunities for Spouse Abuse Center and Rape Crisis Center staff, including, but not limited to, focusing on the tasks integral to financial and personnel management and direct service delivery.

(c) Provide merit-based stipends for Rape Crisis Center and Spouse Abuse Center staff to access educational opportunities in Kentucky technical colleges, community colleges, and universities.

(d) The funds secured by the Office of the Attorney General from this settlement should be deposited pursuant to KRS 41.300 and the Office of Financial Management and Economic Analysis should invest the funds.

(e) The principal should not be expended unless authorized by the General Assembly. Any such action should be consistent with the Federal Court Order.

(f) Upon receiving written notice from the Governor's Council on Domestic Violence and Sexual Assault on the allocation of investment income, the Finance and Administration Cabinet should take necessary action to transfer funds to the appropriate state agency to execute contractual agreements in accordance with KRS Chapter 45A.

SB 51, AN ACT relating to osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

Any reference in an executive order to "medical doctor", "M.D.", or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless either of those terms is specifically excluded.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Any reference in an administrative regulation to "medical doctor", "M.D.", or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless any of those terms is specifically excluded.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, no health facility licensed in the Commonwealth shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice medicine on the basis of whether the physician holds a medical doctor (M.D.) or doctor of osteopathy (D.O.) degree.

SECTION 4. A NEW SECTION OF KRS CHAPTER 17A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, no health benefit plan shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice medicine on the basis of whether the physician holds a medical doctor (M.D.) or doctor of osteopathy (D.O.) degree.

SECTION 5. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

(1) Any reference in the Kentucky Revised Statutes to "medical doctor", "M.D." or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless any of those terms is specifically excluded.

(2) Any reference in the Kentucky Revised Statutes to the American Board of Medical Specialties shall include the Bureau of Osteopathic Specialties, unless either of those terms is specifically excluded.

Section 6. This Act may be cited as the Osteopathic and Allopathic Healthcare Nondiscrimination Act of 2000.

The House Committee Substitute No. 1 to **SB 51** is as follows:

SB 51, AN ACT relating to osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

Any reference in an executive order to "medical doctor", "M.D.", or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless either of those terms is specifically excluded.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Any reference in an administrative regulation to "medical doctor", "M.D.", or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless any of those terms is specifically excluded.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, no health facility licensed in the Commonwealth shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice medicine on the basis of whether the physician holds a medical doctor (M.D.) or doctor of osteopathy (D.O.) degree.

SECTION 4. A NEW SECTION OF KRS CHAPTER 17A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, no health benefit plan shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice medicine on the basis of whether the physician holds a medical doctor (M.D.) or doctor of osteopathy (D.O.) degree.

SECTION 5. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

(1) Any reference in the Kentucky Revised Statutes to "medical doctor", "M.D." or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless any of those terms is specifically excluded.

(2) Any reference in the Kentucky Revised Statutes to the American Board of Medical Specialties shall include the Bureau of Osteopathic Specialties, unless either of those terms is specifically excluded.

Section 6. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board. The board shall consist of ***fifteen (15)***~~[thirteen (13)]~~ members, including the commissioner of public health, the dean of the University of Kentucky College of Medicine, the dean of the University of Louisville School of Medicine, ***the dean of the Pikeville College School of Osteopathic Medicine,*** and ***eleven (11)***~~[ten (10)]~~ members appointed by the Governor. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. Seven (7) members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. *Three (3)*~~[Two (2)]~~ members shall be citizens at large who are representatives of any recognized consumer advocacy groups with an interest in the delivery of health care and are not associated with or financially interested in the practice or business regulated.

Section 7. This Act may be cited as the Osteopathic and Allopathic Healthcare Nondiscrimination Act of 2000.

SB 100, AN ACT relating to adult day health care programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, on or before August 1, 2000, promulgate administrative regulations addressing the scope of services for licensed adult day health care programs.

(2) The cabinet shall, on or prior to December 1, 2000, study and promulgate administrative regulations regarding the way case management for adult day health care patients is administered.

SB 111, AN ACT relating to disclosure requirements for nursing facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any long-term care facility as defined in KRS 216.535 or long-term care facility constructed under KRS 216B.071 that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the facility's director and shall be made available for inspection upon request of any person.

(b) Any advertisement of the facility shall contain the following statement: "Written information relating to this facility's services and policies is available upon request."

(c) The facility shall post a statement in its entrance or lobby as follows: "Written information relating to this facility's services and policies is available upon request."

(2) The facility shall maintain and update written information on the following:

(a) The long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or related disorders;

(b) The process and criteria the long-term care facility uses to determine placement into services for persons with Alzheimer's disease or related disorders;

(c) The process and criteria the long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or related disorders;

(d) The supervision provided for patients with a medical diagnosis of Alzheimer's disease or related disorders;

(e) The family's role in care;

(f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or related disorders;

(g) A description of any special care services for persons with Alzheimer's disease or other related disorders; and

(h) Any costs associated with specialized services for Alzheimer's disease or related disorders.

The Committee Substitute No. 1 to **SB 111** is as follows:

SB 111, AN ACT relating to disclosure requirements for nursing facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any long-term care facility as defined in KRS 216.535 or long-term care facility constructed under KRS 216B.071 that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other related disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the facility's director and shall be made available for inspection upon request of any person. The facility shall make a copy of any program or service information contained in the manual for a person who requests information about programs or services,

at no cost to the person making the request.

(b) Any advertisement of the facility shall contain the following statement: "Written information relating to this facility's services and policies is available upon request."

(c) The facility shall post a statement in its entrance or lobby as follows: "Written information relating to this facility's services and policies is available upon request."

(2) The facility shall maintain and update written information on the following:

(a) The long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or related disorders;

(b) The process and criteria the long-term care facility uses to determine placement into services for persons with Alzheimer's disease or related disorders;

(c) The process and criteria the long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or related disorders;

(d) The supervision provided for residents with a medical diagnosis of Alzheimer's disease or related disorders;

(e) The family's role in care;

(f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or related disorders;

(g) A description of any special care services for persons with Alzheimer's disease or other related disorders; and

(h) Any costs associated with specialized services for Alzheimer's disease or related disorders.

SB 174, AN ACT relating to uniform child support orders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit, District, or Family Court that require entry into the state case registry pursuant to KRS 205.712(3), shall be entered on forms adopted by the Administrative Office of the Courts in coordination with the Cabinet for Families and Children. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

SB 186, AN ACT relating to child-caring facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.641 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Allowable costs ***report***" means ***a report from each child-caring facility that contracts with the department for services and includes*** all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," ***and other information the department may require,*** utilizing cost data from ***each***[~~the~~] child-caring facility's most recent yearly audited financial statement;

(b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;[~~ and~~]

(c) "Department" means the Department for Social Services of the Cabinet for Families and Children***;***

(d) "Model program cost analysis" means a report based on a time study, the allowable costs report, and other information required by the department from each child-caring facility that contracts with the department for services that determines a statewide median cost for each licensed program category of service provided by child-caring facilities; and

(e) "Time study" means the process of reporting the work performed by employees of child-caring facilities in specified time periods.

(2) ***Subject to the limitations set forth in subsection (4) of this section,*** when the department[~~ for Social Services~~] chooses to ***contract with***[~~place a child in~~] a nonprofit child-caring facility ***for services to a child committed to the department***, the department shall ***make payments to***[~~reimburse~~] that facility ***based on the rate setting methodology developed from the model program cost analysis. The department shall also assure that the methodology:***[~~the allowable cost of the child's care, subject to the limitation set forth in subsection (3) of this section~~]

(a) Provides payment incentives for moving children as quickly as possible to a permanent, continuous, stable environment;

(b) Provides children who require out-of-home care or alternative treatment with placements that are as close as possible to their home geographic area; and

(c) Provides appropriate placement and treatment services that effectively and efficiently meet the needs of the child and the child's family as close as possible to the child's home geographic area.

(3) ***The department shall use the model program cost analysis as a basis for cost estimates for the development of the department's biennial budget request***~~[When the Department for Social Services chooses to place a child in a nonprofit child-caring facility, the rate of reimbursement for the child's care shall not exceed seventy-five percent (75%) of the average cost in the most comparable residential facility operated by the department. The rate shall be based on actual total facility occupancy for the most recent audited year or ninety percent (90%) of the facility capacity for the audited year, whichever is greater]~~.

(4) The secretary shall, to the extent funds are appropriated, ***establish and*** implement the ***rate setting***~~[reimbursement]~~ methodology ***and rate of payment by promulgation of***~~[set forth in this section, or may promulgate]~~ administrative regulations in accordance with KRS Chapter 13A ***that***~~[to establish the rate of reimbursement for child-caring facilities which]~~ are consistent with the level ***and quality*** of service provided ***by child-caring facilities. The administrative regulations shall also include the forms and formats for the model program cost analysis***.~~[If funds are insufficient in any given fiscal year to fully fund this provision, rates shall be adjusted by determining the reimbursement schedule and adjusting by the ratio of available funds to estimated full cost.]~~

SB 212, AN ACT relating to senior citizens and child-care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.245 is amended to read as follows:

(1) No later than August 1, 1990, the Cabinet for Human Resources shall begin contracting to construct and operate, or lease and operate the following:

(a)~~[(1)]~~A one hundred (100) bed inpatient mental health facility in eastern Kentucky;

(b)~~[(2)]~~Twelve (12) child care centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts;

(c)~~[(3)]~~Four (4) eight (8) bed group homes for persons with mental retardation;

(d)~~[(4)]~~Two (2) one hundred (100) bed personal care homes; and

(e)~~[(5)]~~Twelve (12) senior citizens centers with a minimum of one (1) center in each of the seven (7) Kentucky congressional districts.

(2) Effective August 1, 2000, the Cabinet for Families and Children, as the successor agency to the Cabinet for Human Resources with the responsibility for the operation of child-care centers as identified in subsection (1)(b) of this section, may transfer the ownership of all real property relating to any child-care center, with the approval of the Finance and Administration Cabinet, and all operational and administrative responsibility over any child-care center, and any contract, agreement, or lease that the Cabinet for Families and Children has assumed or executed for the operation of any child-care center to the city, county, or urban-county government in which the center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

(3) Effective August 1, 2000, the Cabinet for Families and Children, as the successor agency to the Cabinet for Human Resources with the responsibility for the operation of senior citizens centers as identified in subsection (1)(e) of this section, may transfer the ownership of all real property relating to any senior citizens center, with the approval of the Finance and Administration Cabinet, and all operational and administrative responsibility over any senior citizens center, and any contract, agreement, or lease that the Cabinet for Families and Children has assumed or executed for the operation of any senior citizens center, to the city, county, or urban-county government in which the center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

Section 2. KRS 154.20-020 is amended to read as follows:

(1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or

state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for Health Services in facilitation of KRS 194.245(1)*(a)*.

Section 3. If the General Assembly confirms the reorganization addressed by Executive Order 99-80, whereby the Office of Aging Services and the responsibility for the operation of the senior citizens centers addressed by subsection (3) of Section 1 of this Act are transferred to the Cabinet for Health Services, the Reviser of Statutes shall replace the references to the Cabinet for Families and Children with the Cabinet for Health Services in subsection (3) of Section 1 of this Act.

SCR 39, A CONCURRENT RESOLUTION creating a task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

WHEREAS, there are currently over 35,000 long-term care beds in Kentucky; and

WHEREAS, in fiscal year 1998-1999, the Kentucky Medical Assistance Program spent over $690,000,000 on long-term care services; and

WHEREAS, according to the Kentucky State Data Center, by 2020, the population over the age of 65 in Kentucky is estimated to grow to 717,607 which is an increase of 45%, as compared with only a 10% growth in Kentucky's total population; and

WHEREAS, between 2010 and 2020 Kentucky's entire population growth will be in the 65 and over category; and

WHEREAS, these stunning changes in our population will dramatically increase the need and demand for quality long-term care services; and

WHEREAS, Kentucky needs to prepare now for the challenges that will be presented in caring for this growing elderly population;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a task force on quality long-term care during the 2000-2002 interim to study the issue of providing quality long-term care in Kentucky. The task force shall meet at least monthly, beginning not later than October 1, 2000, and shall report its findings and recommendations to the Legislative Research Commission and the Governor no later than September 1, 2001. The task force shall study methods to promote and enhance the quality of care provided in long-term care facilities in Kentucky, as well as in-home and community-based services, which shall include, but not limited to:

(1) Wage pass through programs to increase staff salaries;
(2) Financial incentives for facilities exceeding quality standards;
(3) Linkage of reimbursement to staffing levels;
(4) Provision of additional training for facility staff;
(5) Mandatory staff-to-patient ratios;
(6) Assisted living facilities and other nonmedical socially oriented living arrangements in the community; and
(7) Noninstitutional services delivered in the home of the client including, but not limited to, the provision of home health, meals, housekeeping, and assistance with personal care.

Section 2. The task force shall consist of 26 members as follows:

(1) The Chair of the House Health and Welfare Committee;
(2) The Chair of the Senate Health and Welfare Committee;
(3) The Chair of the House Appropriations and Revenue Committee;
(4) The Chair of the Senate Appropriations and Revenue Committee;
(5) The Chair of the House Seniors, Military Affairs, and Public Safety Committee;
(6) The Secretary of the Cabinet for Health Services or the secretary's designee;
(7) The Commissioner for the Department for Medicaid Services;
(8) The Director of the Division of Licensing and Regulations;
(9) The Kentucky State Long-Term Care Ombudsman;
(10) The Director of the Division of Aging Services;
(11) The Attorney General or the Attorney General's designee.
(12) Fifteen members appointed jointly by the President of the Senate and the Speaker of the House of Representatives, with one member representing each of the following interests:

(a) The Kentucky Association of Health Care Facilities;
(b) The Kentucky Association of Not-for-Profit Homes and Services for the Aging;
(c) The Kentucky Nursing Home Association;
(d) The Kentucky Hospital Association;
(e) The Kentucky Medical Association;
(f) The Kentucky Nurses Association;
(g) The Kentucky Home Health Association;
(h) The Kentucky Hospice Association
(i) The American Association of Retired Persons;
(j) The Kentucky Association of Gerontology;
(k) The Kentucky Assisted Living Facilities Association;
(l) The Kentucky Adult Day Association;
(m) A district long-term care ombudsman; and
(n) Two citizen members of a board of directors of a district long-term care ombudsman program.

Section 3. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

Section 4. The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission, and include at least one Legislative Research Commission staff economist.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Appropriations and Revenue reported **HB 57,** with Committee Substitute attached thereto, **HB 221,** with Committee Substitutes attached thereto, **HB 321,** with Committee Substitute attached thereto, **HB 322,** with Committee Substitute attached thereto, and **HB 392** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 221** is as follows:

HB 221, AN ACT relating to a Rails to Trails Program.

WHEREAS, the 1998 Kentucky General Assembly directed the Legislative Research Commission to establish a special interim Rails to Trails Task Force to study the feasibility, benefits, and implementation of a strategy for a Rails to Trails Program throughout the Commonwealth; and

WHEREAS, the task force appointed by the Commission has reported its findings to the Commission and the General Assembly; and

WHEREAS, the task force has recommended that a Rails to Trails Program be pursued by the Commonwealth as promoting the health, safety, and welfare of the citizenry;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

A Railtrail Development Office is hereby created within the Department for Local Government. The department shall insure that the office has the necessary expertise to carry out the requirements imposed upon it by this section. Among other railtrail functions and duties which may be assigned to it, the office shall carry on at least the following responsibilities:

(1) The office shall monitor the proceedings of the United States Department of Transportation's Surface Transportation Board and shall disseminate to interested entities in Kentucky information regarding those proceedings of interest to railtrail conversion or policy in the Commonwealth. If a railroad applies to the Surface Transportation Board for authority to discontinue service over or abandon a railroad corridor in the Commonwealth, the office shall immediately notify those political subdivisions through which the corridor passes and any interested state agency of the proceedings and the potential for trail development of the corridor. Notice shall also be sent to the county judge/executive of each county through which the proposed abandonment passes, who shall distribute copies of the notice to each member of the chief legislative body of the county government at the next regularly scheduled meeting of that legislative body. The office shall also send a copy of the notice to each soil and water conservation district through which the abandonment passes. If time is of the essence and it appears that the corridor is a suitable candidate for conversion to a railtrail and

that no other railtrail interested entity will be participating in the federal proceeding, the office shall take those steps necessary to cause a railbanking or public use condition to be imposed in the federal proceeding;

(2) The office shall assist any requesting political subdivision or agency of state government with assistance on any application to the Surface Transportation Board regarding an abandoned or about to be abandoned railroad corridor, including any requests for railbanking or imposition of public use conditions;

(3) The office shall coordinate and promote railtrail development efforts among the various agencies of state government, including the Department of Parks and the Transportation Cabinet. While this subsection does not confer upon the office any powers beyond those that it may ordinarily possess, every entity of state government shall cooperate with the office to the extent practicable under the circumstances;

(4) The office shall furnish to requesting political subdivisions assistance in applying to available federal, state, or local funding sources for funds to be used for the process of converting railroad corridors into public use trails; and

(5) The office may apply for federal, state, or private grants or other forms of financial assistance to carry on its mission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) Any organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, agency of state government, or political subdivision or city of this state holding or acquiring a railroad corridor may preserve the corridor for future railroad use while utilizing the right-of-way in the interim for nonmotorized public recreational use by filing with the Secretary of State a "Declaration of State Railbanking", concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall contain the name and address of the filing entity, a textual description and map of the railroad corridor being railbanked, a statement that the entity accepts full responsibility for managing the corridor, for any legal liability arising out of the use of the corridor or, if the entity is immune from suit, that the entity agrees to indemnify the railroad for any liability arising out of the use of the corridor, and for the payment of all taxes which may validly be assessed against the corridor, and a declaration that the property is being railbanked in accordance with the provisions of Kentucky law in that the corridor is held open for future restoration of rail service and that this section only grants authority for the corridor to be utilized for nonmotorized public recreational use during the interim.

(2) Any property that is the subject of a declaration of state railbanking, including property held by easement, shall, during the period a declaration of state railbanking remains in force, be deemed to be held for a railroad use and shall not revert to any other form of ownership. Until rail service is restored over the corridor, the declaration of state railbanking shall only authorize the use of the corridor for public, nonmotorized recreational use, with associated infrastructure. However, a declaration of state railbanking shall not preclude any public utility usage of the corridor if that usage is otherwise permitted under other applicable law. For the specific purpose of allowing railbanking under this section, an easement for railroad use shall not be deemed abandoned until the person holding the easement conveys the easement to another person for a nonrailroad use, title to the easement and the underlying estate comes into the hands of the same owner by conveyance, the easement owner files a disclaimer in the office of the county clerk of the county where the property is situated disclaiming all interest in the corridor, or the easement is declared abandoned by judicial decree.

(3) After property is railbanked under this section, the property shall be held available for purchase by any bona fide purchaser for the restoration of rail service over the property. The following requirements shall apply to any transfer of property in contemplation of the restoration of railroad service:

(a) The entity that acquired the right to use the railroad corridor for a railtrail under this section or to whom that right had been subsequently transferred shall be compensated for the fair market value of the corridor together with any improvements erected thereon. Funds received by the entity under this paragraph shall be held in trust for the benefit of the public;

(b) All required federal and state permits and authority to reactivate and operate a railroad over the corridor shall be obtained prior to the transfer of the property for the contemplated railroad service restoration;

(c) Adequate bond with good surety shall be posted ensuring that the railroad will be constructed, with the bond being used to cover the cost of restoring the corridor to its physical condition prior to transfer of the railbanked corridor for the contemplated railroad service restoration; and

(d) The physical infrastructure necessary to operate the railroad, including tracks, ties, frogs, signaling equipment, grade crossings, and the like, shall be in place one (1) year from the date of the transfer. Train service shall be in place and operating two (2) years, from the date of the transfer. If these timelines are not met, the corridor and all associate physical improvements thereon shall automatically forfeit to the ownership of the entity responsible for railbanking the corridor under this section.

(4) Any person aggrieved by the act of railbanking a railroad corridor under the provisions of this section shall bring their claims within one (1) year after the declaration of state railbanking has been filed with the Kentucky Secretary of State. Any entity against whom a claim is asserted may utilize as an offset or setoff to the amount of any recovery those amounts in state or local taxes, together with interest and penalties, that have not been paid on the value of the

property through which the claimant asserts title.

(5) Any entity which caused a declaration of state railbanking to be filed shall cause the declaration to be vacated on the files of the Secretary of State upon the cessation of use of the corridor as a nonmotorized public use trail or the reactivation of railroad service over the corridor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) It is the public policy of this state to preserve railroad corridors for future railroad use. Toward this end, the Commonwealth recognizes that the salvage of tracks, ties, signaling equipment, ballast, and other items may indicate an intent to maximize return on present investment and not an intent to abandon any underlying easement for railroad or other use and that the obtaining of federal authority to discontinue service over or abandon a corridor does not necessarily indicate an intent to relinquish any property interests under state law. In any civil action to determine the status of a railroad use easement, ambiguity as to intent shall be resolved in favor of continued preservation of the corridor.

(2) Any holder of a railroad corridor held by easement or otherwise may preserve that corridor by filing with the Secretary of State a "Preliminary Declaration of State Railbanking," concurrently serving a copy of the declaration on the Transportation Cabinet. The declaration shall state the name of the entity holding the corridor, a textual description and map of the land area encompassed by the corridor, and a statement that the entity does not intend to abandon the corridor described in the declaration. The entity filing the declaration may at any later time cause that declaration to be withdrawn from the Secretary of State's files. While a preliminary declaration of state railbanking is on file with the Secretary of State, the corridor set out in the declaration shall not, regardless of the status or conclusion of any federal regulatory proceeding or the salvage of track and other material from the corridor, be deemed abandoned and shall continue to exist under Kentucky law and the property encompassed by the corridor shall not revert to any other form of ownership.

SECTION 4. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

In addition to any other legal right, any person having a legal interest in land adjoining a railtrail or in the land traversed by the railtrail itself may grant to the entity holding the right to maintain a railtrail over the property a conservation easement over all or a portion of the property in accordance with KRS 382.800 to 382.860. The entity holding the right to maintain a railtrail over the corridor may, if it finds the easement's terms acceptable, yearly designate for the tax purposes of the party conveying the easement that the entity is holding the corridor pursuant to the authority granted to that entity in the easement as opposed to authority granted in Section 2 of this Act or any similar law allowing railbanking under federal law. This designation shall not, however, affect in any way the legal right of that entity to hold the corridor pursuant to a federal or state railbanking law or the operation of those laws, and the right to maintain the railtrail on the land shall not lapse as the result of the extinguishment or modification of the easement. The easement, by its terms, may be limited in duration from year to year or for a set period of years, may extinguish itself upon the happening a defined contingent future event, or may last in perpetuity.

Section 5. KRS 148.690 is amended to read as follows:

(1) The department shall review all formal declarations of railroad right-of-way abandonments by the Surface Transportation Board or other agency with jurisdiction and may review former railroad corridors for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.

(2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way, abandoned railroad corridors, or similar properties having value for trail purposes may be made available for such use; however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way, railroad corridors, and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use. *These procedures shall include, at a minimum, that, for every railroad corridor that is the subject of a request for federal authority to discontinue service or for federal regulatory abandonment, the commissioner shall evaluate the potential of converting that corridor into a railtrail. The commissioner shall cause a preliminary review to be completed within thirty (30) days of the publication of the request for federal authority in the Federal Register. The commissioner shall cause a final review to be completed ninety (90) days after the publication of the request for federal authority in the Federal Register. The commissioner shall timely transmit copies of these reviews to the Legislative Research Commission and to the Commonwealth's Railtrail Development Office in the Department for Local Government as they are completed. If either review indicates the possibility of converting the corridor into a railtrail, the commissioner may participate in the federal proceeding to request that the corridor be railbanked in accordance with federal law or to request the imposition of a public use condition.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet, including any agency or other unit of government attached to the cabinet, shall

immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

(2) The Transportation Cabinet shall keep a record of railroad lines in the Commonwealth of Kentucky, including both lines that have been abandoned through the federal government's regulatory abandonment process and those where any railroad property interest in the railroad corridor itself has been abandoned under Kentucky law. The cabinet shall annually publish an updated map showing the location and as much information as to the status of these lines as practicable. The record shall include, in as much as possible;

(a) A description of the line and its location;

(b) The current or last railroad owner of the line;

(c) The operator of the line;

(d) The addresses and phone numbers for the owners and operators of the lines;

(e) Whether the owner of the line has received authority from the Federal Government to discontinue service over the line;

(f) Whether the owner of the line has received authority from the Federal Government to abandon the line;

(g) Whether the owner of the line has consummated any authority granted by the Federal Government to discontinue service over the line or to abandon the line;

(h) Whether the line has been railbanked under either federal or state law; and

(i) Any other information the cabinet deems pertinent and useful to the public.

SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 8. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;

(b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;

(c) Enter into such contractual relationships as may be necessary;

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Education, Arts, and Humanities Cabinet. The director of the Heritage Division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the State Historic Preservation Program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the National Register of Historic Places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state;~~[and]~~

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan***; and***

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 9. A NEW SECTION OF KRS CHAPTER 276 IS CREATED TO READ AS FOLLOWS:

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's Railtrail Development Office in the Department for Local Government and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so.

SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The Public Service Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 12. KRS 411.190 is amended to read as follows:

(1) As used in this section:

(a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee***, reversionary, or easement*** interest, a tenant, lessee, occupant, or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, ***bicycling, horseback riding,*** pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6) of this section, an owner of land who either directly or indirectly invites or permits without charge any person to use the property for recreation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of the land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 13. KRS 511.090 is amended to read as follows:

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.

(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.

(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.

(5) Private land adjoining a railtrail that is neither fenced nor otherwise enclosed shall be presumed to be land where notice against trespassing has been given by the owner of the land, and a person utilizing the railtrail shall be presumed to lack privilege or license to enter upon that land unless the person has permission from an adjoining landowner to do so.

Section 14. The Department for Local Government shall inventory the Commonwealth's active and abandoned rail corridors and, for the abandoned corridors, analyze the suitability of each of those corridors for railtrail conversion. Corridors inventoried shall include both common carrier and private railroads, as well as railroads which may not have been attached to the interstate transportation system. Additionally, corridors over which service has been discontinued as well as corridors potentially subject to abandonment shall be analyzed as abandoned corridors. In conducting the inventory, the department shall, for each corridor, attempt to ascertain the legal ownership status of the corridor and the date rail service over the rail corridor ceased together with the dates of formal abandonment, and make an examination of the physical integrity of the corridor, including the presence or lack of tunnels, bridges, and culverts. The department shall make its report to the Legislative Research Commission no later than July 1, 2003. The department may divide the state into regions, and complete assessments for individual regions prior to July 1, 2003. The report shall be provided in both printed and electronic format. The department may, through a request for proposals process, contract with a Kentucky public university for the performance of any of the responsibilities imposed upon the department by this section. The department may seek and utilize available state and federal grant money to fund the assessment.

Section 15. The Legislative Research Commission shall establish a Rails to Trails Program Task Force. The task force shall be composed of fifteen members, nine of whom shall be members of the Kentucky General Assembly with Senate and House co-chairs appointed by the Legislative Research Commission. The task force shall include among the nine legislative members the Chair of the Senate Economic Development and Labor Committee, and the Chairs of both the House Economic Development Committee and the House Tourism Development and Energy Committee. The remaining six members of the task force shall be:

1. The Governor of the Commonwealth of Kentucky, or his designee;
2. The Commissioner of the Department of Parks, or his designee;
3. The Secretary of the Tourism Cabinet, or his designee;
4. The commissioner of the Department for Local Government, or his designee;
5. A representative of the Kentucky Rails to Trails Council, to be designated by that organization; and
6. A representative of the Kentucky Farm Bureau, to be designated by that organization.

The task force shall continue to study railtrail issues, with particular emphasis on establishing actual trails within the Commonwealth. The Department for Local Government or the university to whom the assessment contract is awarded under Section 14 of this Act shall, upon request of the task force, update the task force on the progress of the work and allow task force members and staff access to records and meetings connected with the assessment. The task force shall report its findings and recommendations to the Legislative Research Commission by September 15, 2001.

The Committee Amendment No. 1 to the Committee Substitute to **HB 392** is as follows:

On page 3, line 12, delete the words "***each***" and "***year***", and delete the opening bracket and strikethroughs through the word "years". Insert the following language after the word "years", "***2000-2001 and 2001-2002***" and re-insert the opening bracket before "1998-1999".

Calendar

HB 285, HB 519, HB 850, HB 873, HCR 127, HJR 141, HB 852, HB 902, HB 155, HB 524, HB 555, HB 726, HB 865, HB 877, HB 889, HB 903, HB 909, HB 916, HB 925, HB 931, HB 938, HB 995, HB 1000, HCR 147, SB 113, SB 149, SB 194, HB 788, HB 790, HB 201, SB 169, SB 170, SB 232, HB 278, HB 388, HB 617, HB 629, HB 660, HB 892, HB 855, HJR 121, HB 291, HB 378, HB 533, HB 830, SB 3, SB 36, SB 65, SB 107, and **HB 956** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **HB 996**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 389, HB 822, HB 886, HB 248, HB 366, HB 642, HB 727, HB 728, HB 857, HB 866, HB 881, HB 912, HB 944, HB 984, HJR 128, SB 58, HB 25, HB 258, HB 324, HB 390, HB 437, HB 554, HB 571, HB 640, HB 177, HB 288,** and **HB 629** have been posted for passage in the Orders of the Day for March 13, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 278, HB 388, HB 617, HB 660, HB 892, HB 421, HB 564, HB 588**

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 110, SB 190, HB 126, HB 346, HB 407, HB 429, HCR 19, HCR 21, HCR 23, HCR 24, HJR 48,** and **HJR 78** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:50 a.m.)

Representative Barrows moved that the rules be suspended to grant floor privileges and to introduce and act upon a Resolution. Agreed.

HR 152, by Representative Barrows: A RESOLUTION honoring the Woodford County High School Boy's Wrestling team.

Representative Barrows moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION honoring the Woodford County High School Boy's Wrestling team.

WHEREAS, the Woodford County High School wrestling team has achieved winning records for the past ten years and subsequently dominated the sport of high school wrestling for the past eight years by winning state championships in 1993, and back-to-back championships in 1996-1997 and in 1999-2000; and

WHEREAS, this great team is lead by Coaches Rusty Parks and Joe Carr who were recently voted as both the Coaches of the Year and as the Coaches of the Decade; and

WHEREAS, this great team is led by three state champions: Michael Jackson, Ryan Leugers, and John Gentry, and also by state runner-up Ralph Lay; and

WHEREAS, the hard work and dedication of this entire team consisting of: Chris Guillaume, Russell Williamson, Matthew Luckett, Jarvis Livingston, Eric Slugantz, Drew Conners, Kyle Leugers, Steven Knapp, Jamison Large, Justin Jones, John Adams, and Clint Edds has contributed to the success of this athletic program, and every member of this team is to be commended for his accomplishments;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes the accomplishments of this outstanding state championship wrestling team and wishes each and every member of this team continued athletic and academic success in the future.

Section 2. That the Clerk of the House of Representatives is directed to send sufficient copies of this Resolution to Coaches Rusty Parks and Joe Carter for distribution to team and staff members at Woodford County High School, 1800 Frankfort Street, Versailles, Kentucky 40383-1149.

There being no objection **HR 152** was adopted.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Appropriations and Revenue meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 737, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved the adoption of Committee Amendment No. 1 to **HB 737**. Agreed.

Representative Feeley moved that **HB 737**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 10, 2000 roll call on **HB 737** - Appendix.)

HB 737, as amended, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 737**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 777, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Committee Substitute to **HB 777**. Agreed.

Representative Ford moved that **HB 777**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 10, 2000 roll call on **HB 777** - Appendix.)

HB 777, by way of Committee Substitute, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 777**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 512 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 512** be placed back in the Orders of the Day and retain its position. Agreed.

Report On Enrolled Bills (Continued)

HB 126, HB 346, HB 407, HB 429, HCR 19, HCR 21, HCR 23, HCR 24, HJR 48, and **HJR 78** delivered to the Senate and signed by the President. Delivered to the Governor on March 10, 2000, at 11:26 a.m.

Orders of the Day (Continued)

HB 825, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 825**. Agreed.

Representative Stacy moved that **HB 825**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 10, 2000 roll call on **HB 825** - Appendix.)

HB 825, by way of Committee Substitute, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 825**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 911, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Floor Amendment No. 1 to **HB 911**. Agreed.

Representative Haydon moved that **HB 911**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 10, 2000 roll call on **HB 911** - Appendix.)

HB 911, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 911**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 910, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **HB 910** be passed.

On the roll call the vote was: **Yeas 89, Nays 1**. (See March 10 , 2000 roll call on **HB 910** - Appendix.)

HB 910 was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 910** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 420, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved the adoption of the Committee Substitute to **HB 420**. Agreed.

Representative Alexander moved that **HB 420**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86**, **Nays 4**. (See March 10, 2000 roll call on **HB 420** - Appendix.)

HB 420, by way of Committee Substitute, was passed and the title agreed to.

Representative Alexander moved that the vote by which **HB 420**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 58, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ausmus moved the adoption of the Committee Substitute to **HB 58**. Agreed.

Representative Ausmus moved that **HB 58**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 1**. (See March 10, 2000 roll call on **HB 58** - Appendix.)

HB 58, by way of Committee Substitute, was passed and the title agreed to.

Representative Ausmus moved that the vote by which **HB 58**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 685, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 685**. Agreed.

Representative Lindsay moved that **HB 685**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 0**. (See March 10, 2000 roll call on **HB 685** - Appendix.)

HB 685, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 685**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 842, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of Committee Amendment No. 1 to **HB 842**. Agreed.

Representative Buckingham moved that **HB 842**, as amended, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 10, 2000 roll call on **HB 842** - Appendix.)

HB 842, as amended, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 842**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 957, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of the Committee Substitute to **HB 957**. Agreed.

Representative DeWeese moved that **HB 957**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 0**. (See March 10, 2000 roll call on **HB 957** - Appendix.)

HB 957, by way of Committee Substitute, was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 957**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 13, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 153, by Representative Siler: A RESOLUTION encouraging the Kentucky Department of Education, other state agencies of the Commonwealth of Kentucky, and school districts to work together to promote the inclusion of students and teachers in community-based learning initiatives.

HCR 154, by Representatives Alexander, Webb, Anderson, Branham, Stacy, Hoffman, Napier, Ausmus, Childers, Stewart, Weaver, Ratliff, Colter, Collins, Cornett, Palmer, Adkins, Gooch, Palumbo, Bowling, and J. Turner: A CONCURRENT RESOLUTION directing the study of gasification of coal for use as vehicle fuel.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 939, HB 860, HB 841, HB 858**

Local Government: **HB 269, HB 844, HB 1024, SB 159, SB 160, SB 326, SB 255, SB 217, SB 102, SB 101, SB 71**

State Government: **HB 878, HJR 132, HJR 138, HB 991, HB 800**

Seniors, Military Affairs, and Public Safety: **HB 962, HB 1020**

Economic Development: **SB 23**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

State Government: **HB 871**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 289**, with Committee Substitute attached thereto, **HB 789**, with Committee Substitute attached thereto, **HB 796**, with Committee Substitute attached thereto, and **HB 919**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A person who does not comply with an order of child support issued under KRS 403.140, 403.160, 403.180, 403.211, 403.212,

403.213, or 403.240 may be found guilty of nonsupport or flagrant nonsupport and be subject to penalties provided for in KRS 530.050.

Section 2. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates KRS 405.490(2) shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs, and reasonable attorney's fees.

(3) A person who violates KRS 405.430(12) shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

(4) A person who does not comply with an order of child support issued under KRS 405.430 or 405.510 may be found guilty of nonsupport or flagrant nonsupport and be subject to penalties provided for in KRS 530.050.

The Committee Substitute No. 1 to **HB 289** is as follows:

HB 289, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A court may include in a child support order a statement that violation of the order may lead to criminal prosecution for nonsupport or flagrant nonsupport under KRS 530.050.

SECTION 2. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

A court may include in a child support order a statement that violation of the order may lead to criminal prosecution for nonsupport or flagrant nonsupport under KRS 530.050.

HB 789, AN ACT relating to intellectual property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- ***(a) "Counterfeit mark" means:***
  - ***1. Any unauthorized reproduction or copy of intellectual property; or***
  - ***2. Intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.***
- ***(b) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the person's goods or services.***
- ***(c) "Person" includes, in addition to its meaning under KRS 446.010, any association, organization, or entity amenable to suit in a court of law.***
- ***(d) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.***

(2) Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item or service that the person knows bears or is identified by a counterfeit mark shall be guilty of counterfeiting.

(3) A person having possession, custody, or control of more than twenty-five (25) items that the person knows bears or is identified by a counterfeit mark shall be presumed to possess the items with the intent to sell or distribute.

(4) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor, except where the person has been previously convicted of a violation of this section or the violation involves more than one hundred (100) items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars ($1,000), in which case the person shall be guilty of a Class D felony. Unless reduced by the court for extenuating circumstances and notwithstanding KRS Chapter 534, upon conviction the offender shall, in addition to any other allowable disposition, be fined an amount equal to the greater of:

(a) Three (3) times the retail value of the items bearing, or services identified by, the counterfeit mark;

(b) Double the amount of the defendant's gain from commission of the offense; or

(c) As otherwise allowed in KRS Chapter 534 for felonies and misdemeanors.

(5) For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses.

(6) Except for items in the possession of a person not in violation of this section, any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer.

(a) Except as otherwise provided in this subsection, all personal property seized under this subsection shall be forfeited in accordance with KRS 431.100.

(b) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner.

(c) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, the items shall be destroyed unless the intellectual property owner consents to another disposition.

(7) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated in the certificate.

(8) The remedies provided in this section shall be cumulative to other civil and criminal remedies provided by law.

(9) Notwithstanding any statute to the contrary, fines imposed under this section shall be paid into the Crime Victims Compensation Fund established in KRS 346.185.

The Committee Substitute No. 1 to **HB 789** is as follows:

HB 789, AN ACT relating to intellectual property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Counterfeit mark" means:

1. Any unauthorized reproduction or copy of intellectual property; or

2. Intellectual property knowingly affixed to any item without the authority of the owner of the intellectual property.

(b) "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the person's goods or services.

(c) "Person" includes, in addition to its meaning under KRS 446.010, any association, organization, or entity amenable to suit in a court of law.

(d) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(2) Any person who willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any item or service that the person knows bears or is identified by a counterfeit mark shall be guilty of counterfeiting.

(3) A person having possession, custody, or control of more than twenty-five (25) items that the person knows bears or is identified by a counterfeit mark shall be presumed to possess the items with the intent to sell or distribute.

(4) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor, except where the person has been previously convicted of a violation of this section or the violation involves more than one hundred (100) items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is more than one thousand dollars ($1,000), in which case the person shall be guilty of a Class D felony. Unless reduced by the court for extenuating circumstances and notwithstanding KRS Chapter 534, upon conviction the offender shall, in addition to any other allowable disposition, be fined an amount equal to the greater of:

(a) Three (3) times the retail value of the items bearing, or services identified by, the counterfeit mark;

(b) Double the amount of the defendant's gain from commission of the offense; or

(c) As otherwise allowed in KRS Chapter 534 for felonies and misdemeanors.

(5) For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses.

(6) Except for items in the possession of a person not in violation of this section, any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement officer.

(a) Except as otherwise provided in this subsection, all personal property seized under this subsection shall be forfeited in accordance with KRS 431.100.

(b) Upon request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner.

(c) If the intellectual property owner does not request release of seized items bearing a counterfeit mark, the items shall be destroyed unless the intellectual property owner consents to another disposition.

(7) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated in the certificate.

(8) The remedies provided in this section shall be cumulative to other civil and criminal remedies provided by law.

(9) Notwithstanding any statute to the contrary, fines imposed under this section shall be paid into the Crime Victims Compensation Fund established in KRS 346.185.

HB 796, AN ACT relating to business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 275.195 is amended to read as follows:

A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. ***A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest in the limited liability company without making a contribution or being obligated to make a contribution to the limited liability company. Unless otherwise provided in the operating agreement, a person may be admitted to a limited liability company without acquiring a limited liability company interest in the limited liability company.***

Section 2. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) The expiration of the term of the limited liability company set forth in the articles of organization, if any, or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) Unless otherwise set forth in the operating agreement, the ***unanimous*** written consent of a majority-in-interest of the members of a limited liability company;

(3) ***There are no members. However, the limited liability company shall not be dissolved and its affairs shall not be wound up if the conditions of paragraph (a) or (b) of this subsection are met.***

(a) Unless otherwise provided in a written operating agreement, within ninety (90) days, or some other period as is provided for in the operating agreement, after the occurrence of the event that terminated the continued membership of the last remaining member, the successor-in-interest of the last remaining member agrees in writing to continue the limited liability company and to the admission of the successor-in-interest of that member or its designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member.

(b) A member is admitted to the limited liability company in the manner provided for in the operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member.

(4) Entry of a decree of judicial dissolution under KRS 275.290; or

(5)[~~(4)~~]Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

SECTION 3. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may acquire all of the outstanding shares of one (1) or more classes or series of a domestic or foreign corporation if the corporation, limited liability company, and their owners approve the exchange and, if the corporation is a foreign corporation, the share exchange is permitted under the laws of the state or country under whose laws the foreign corporation is incorporated.

(2) The plan of exchange shall set forth:

- *(a) The name of the corporation whose shares will be acquired and the name of the acquiring limited liability company;*
- *(b) The terms and conditions of the exchange; and*
- *(c) The manner and basis of exchanging the shares to be acquired for limited liability company interests, obligations, or other securities of the acquiring limited liability company or for cash or other property in whole or part.*

(3) The plan of exchange may set forth other provisions relating to the exchange.

(4) This section shall not limit the power of a limited liability company to acquire all or part of the shares of one (1) or more classes or series of a corporation through a voluntary exchange or otherwise.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, the plan of share exchange, described in Section 3 of this Act, shall be adopted by the members of the limited liability company.

(2) The board of directors of the corporation whose shares are to be acquired shall adopt the plan of share exchange. After adopting a plan of share exchange, the board of directors of the corporation whose shares are to be acquired in the share exchange shall submit the plan of share exchange for approval by its shareholders in the same manner as provided in KRS 271B.11-030.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) After a plan of share exchange has been approved in accordance with Section 4 of this Act, the acquiring limited liability company shall deliver to the Secretary of State for filing articles of share exchange setting forth:

- *(a) The plan of share exchange; and*
- *(b) A statement that the plan of share exchange was duly authorized and approved by each of the constituent business entities in accordance with KRS Chapter 275.*

(2) A share exchange shall take effect upon the effective date of the articles of share exchange.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

When a share exchange takes effect, as described in Section 5 of this Act, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange.

Section 7. KRS 362.425 is amended to read as follows:

(1) One (1) signed copy and two (2) exact or conformed copies of the certificate of limited partnership, any certificate of amendment, certificate of cancellation, other certificate authorized to be filed by any party under KRS 362.403 to 362.525 or any court order relating thereto shall be delivered to the Secretary of State. It shall not be necessary for a person who executes a certificate as an agent or fiduciary to exhibit evidence of his authority as a prerequisite to filing.

(2) Unless the Secretary of State finds that a certificate does not conform to law, upon receipt of the filing fees provided for in subsection (4) of this section, the Secretary of State shall:

- (a) Endorse on each copy the word "filed" and the day, month, and year of the filing thereof;
- (b) File the original copy in its office; and
- (c) Return the other two (2) copies to the person who filed it or his representative who shall record one (1) copy of the certificate in the office of the county clerk in *the county in* which the office *of the agent for service of process* referred to in KRS 362.407*(1)(b)* is located.

(3) Upon the filing or effective date of a certificate of amendment or court order of amendment with the Secretary of State, the certificate of limited partnership shall be amended as set forth in the certificate of amendment or court-ordered certificate of amendment; and, upon the filing or effective date of a certificate of cancellation or a court order of cancellation, the certificate of limited partnership shall be canceled.

(4) The Secretary of State shall receive a fee of forty dollars ($40) for the filing of each certificate.

Section 8. KRS 362.575 is amended to read as follows:

(1) A registered limited liability partnership, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to *362.595*[~~362.605~~], may conduct its business, carry on its operations, and have and exercise the powers granted by KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to *362.595*[~~362.605~~] in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to

362.595[~~362.605~~] shall be recognized outside the boundaries of this Commonwealth and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to ***362.595***[~~362.605~~], including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.

(4) Subject to any statutes for the regulation and control of specific types of business and subject to KRS 362.585, limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.

(5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

Section 9. KRS 313.240 is amended to read as follows:

(1) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation except the name of a professional service corporation established under KRS Chapter 274 ***or a professional limited liability company established under KRS Chapter 275***. Any person practicing or offering to practice dentistry or dental surgery shall practice under his own name or the name of the professional service corporation ***which includes his name or a professional limited liability company*** which includes his name. No such person shall conduct a dental office in his name nor advertise his name in connection with any dental office unless he personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him only, and shall not use his name in connection with that of any other dentist.

(2) No person shall be an incorporator, director, officer, ***member,*** or shareholder in more than three (3) professional service corporations***, three (3) professional limited liability companies, or three (3) of these business entities, consisting of at least one (1) professional service corporation and one (1) professional limited liability company,*** rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than three (3) locations.

The Committee Substitute No. 1 to **HB 796** is as follows:

HB 796, AN ACT relating to business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 275.195 is amended to read as follows:

A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. ***A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest in the limited liability company without making a contribution or being obligated to make a contribution to the limited liability company. Unless otherwise provided in the operating agreement, a person may be admitted to a limited liability company without acquiring a limited liability company interest in the limited liability company.***

Section 2. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) The expiration of the term of the limited liability company set forth in the articles of organization, if any, or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) Unless otherwise set forth in the operating agreement, the ***unanimous*** written consent of[~~ a majority-in-interest of~~] the members of a limited liability company;

(3) ***There are no members. However, the limited liability company shall not be dissolved and its affairs shall not be wound up if the conditions of paragraph (a) or (b) of this subsection are met.***

(a) Unless otherwise provided in a written operating agreement, within ninety (90) days, or some other period as is provided for in the operating agreement, after the occurrence of the event that terminated the continued membership of the last remaining member, the successor-in-interest of the last remaining member agrees in writing to continue the limited liability company and to the admission of the successor-in-interest of that member or its designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member.

(b) A member is admitted to the limited liability company in the manner provided for in the operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member;

(4) Entry of a decree of judicial dissolution under KRS 275.290; or

(5)~~[(4)]~~Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

SECTION 3. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may acquire all or part of the outstanding shares of one (1) or more classes or series of a domestic or foreign corporation if the corporation, limited liability company, and a majority of their owners approve the exchange and, if the corporation is a foreign corporation, the share exchange is permitted under the laws of the state or country under whose laws the foreign corporation is incorporated.

(2) The plan of exchange shall set forth:

- ***(a) The name of the corporation whose shares will be acquired and the name of the acquiring limited liability company;***
- ***(b) The terms and conditions of the exchange; and***
- ***(c) The manner and basis of exchanging the shares to be acquired for limited liability company interests, obligations, or other securities of the acquiring limited liability company or for cash or other property in whole or part.***

(3) The plan of exchange may set forth other provisions relating to the exchange.

(4) This section shall not limit the power of a limited liability company to acquire all or part of the shares of one (1) or more classes or series of a corporation through a voluntary exchange or otherwise.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, the plan of share exchange, described in Section 3 of this Act, shall be considered for adoption by the members of the limited liability company.

(2) The board of directors of the corporation whose shares are to be acquired shall consider for adoption the plan of share exchange. After adopting a plan of share exchange, the board of directors of the corporation whose shares are to be acquired in the share exchange shall submit the plan of share exchange for approval by its shareholders in the same manner as provided in KRS 271B.11-030.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) After a plan of share exchange has been approved in accordance with Section 4 of this Act, the acquiring limited liability company shall deliver to the Secretary of State for filing articles of share exchange setting forth:

- ***(a) The plan of share exchange; and***
- ***(b) A statement that the plan of share exchange was duly authorized and approved by each of the constituent business entities in accordance with KRS Chapter 275.***

(2) A share exchange shall take effect upon the effective date of the articles of share exchange.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

When a share exchange takes effect, as described in Section 5 of this Act, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange.

Section 7. KRS 362.425 is amended to read as follows:

(1) One (1) signed copy and two (2) exact or conformed copies of the certificate of limited partnership, any certificate of amendment, certificate of cancellation, other certificate authorized to be filed by any party under KRS 362.403 to 362.525 or any court order relating thereto shall be delivered to the Secretary of State. It shall not be necessary for a person who executes a certificate as an agent or fiduciary to exhibit evidence of his authority as a prerequisite to filing.

(2) Unless the Secretary of State finds that a certificate does not conform to law, upon receipt of the filing fees provided for in subsection (4) of this section, the Secretary of State shall:

- (a) Endorse on each copy the word "filed" and the day, month, and year of the filing thereof;
- (b) File the original copy in its office; and
- (c) Return the other two (2) copies to the person who filed it or his representative who shall record one (1) copy of the certificate in the office of the county clerk in ***the county in*** which the office ***of the agent for service of process*** referred to in KRS 362.407***(1)(b)*** is located.

(3) Upon the filing or effective date of a certificate of amendment or court order of amendment with the Secretary of State, the certificate of limited partnership shall be amended as set forth in the certificate of amendment or court-ordered certificate of amendment; and, upon the filing or effective date of a certificate of cancellation or a court order of cancellation, the certificate of limited partnership shall be canceled.

(4) The Secretary of State shall receive a fee of forty dollars ($40) for the filing of each certificate.

Section 8. KRS 362.575 is amended to read as follows:

(1) A registered limited liability partnership, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to ***362.595***[~~362.605~~], may conduct its business, carry on its operations, and have and exercise the powers granted by KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to ***362.595***[~~362.605~~] in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to ***362.595***[~~362.605~~] shall be recognized outside the boundaries of this Commonwealth and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to ***362.595***[~~362.605~~], including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.

(4) Subject to any statutes for the regulation and control of specific types of business and subject to KRS 362.585, limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.

(5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

Section 9. KRS 313.240 is amended to read as follows:

(1) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation except the name of a professional service corporation established under KRS Chapter 274 ***or a professional limited liability company established under KRS Chapter 275***. Any person practicing or offering to practice dentistry or dental surgery shall practice under his own name or the name of the professional service corporation ***which includes his name or a professional limited liability company*** which includes his name. No such person shall conduct a dental office in his name nor advertise his name in connection with any dental office unless he personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him only, and shall not use his name in connection with that of any other dentist.

(2) No person shall be an incorporator, director, officer, ***member,*** or shareholder in more than three (3) professional service corporations***, three (3) professional limited liability companies, or three (3) of these business entities, consisting of at least one (1) professional service corporation and one (1) professional limited liability company,*** rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than three (3) locations.

HB 919, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) An offense where evidence of the commission of the offense, or of another offense, or a deadly weapon or dangerous instrument as defined in KRS 500.080 is seized and the citation is so marked and a court date set;

(b) An offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or

(c) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 2. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or

remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, ***150.445, 150.450(1), 150.470,*** 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1)[~~, 150.445~~], 150.485, 150.600, 150.630, 150.660[~~, 150.450(1), 150.470~~], the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than

one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) An offense where evidence of the commission of the offense or another offense is seized by the officer and the citation is so marked and a court date set;

(b) The offense may result in a license suspension or revocation;

(c) The offense is cited with another offense that is not prepayable; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 4. KRS 177.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 177.230 to 177.310 shall be guilty of a misdemeanor and upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5) nor more than one hundred dollars ($100)~~[or by imprisonment in the city or county jail for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment]~~.

(2) Any person who willfully violates any of the provisions of KRS 177.841 to 177.890 shall, in addition to any other penalty herein provided, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) In addition to any other penalty provided by KRS 177.910 to 177.950, any person violating any order or provision of KRS 177.910 to 177.950 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day of violation of the provisions of KRS 177.910 to 177.950 shall constitute a separate offense.

(4) Any person who violates the weight provisions of KRS 177.9771 shall, upon conviction, be fined in an amount equal to three cents ($0.03) per pound when the excess is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds but is less than four thousand (4,000) pounds, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds but is less than five thousand (5,000) pounds, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds. In no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(5) Any person who transports coal in violation of the weight provisions of KRS 189.221 and 189.222 and does not have a current decal or is not transporting coal under a valid cooperative agreement within KRS 177.9771(4)(f), shall, in addition to any applicable penalty prescribed by law, be fined five hundred dollars ($500) and be required to purchase the decal described in KRS 177.9771(4).

(6) Any person who violates the provisions of KRS 177.305 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) All offenses under this chapter classified as violations shall be prepayable except for:

(a) Any offense that could result in license suspension or revocation by the court;

(b) Any offense relating to KRS 189.285, 189.393, 189.520, or 189.580;

(c) When the defendant is speeding in a restricted zone;

(d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;

(e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(f) The offense is cited with another offense that is not prepayable; or

(g) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS

189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided,~~[shall be guilty of a misdemeanor and]~~ shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

SECTION 7. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) Violations of KRS 235.240 and 235.285;

(b) An offense where evidence of the commission of the offense or another offense was seized and the citation is so marked and a court date set;

(c) The offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

SECTION 8. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except:

(a) Any offense which could result in license suspension or revocation by the court;

(b) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(c) The offense is cited with another offense that is not prepayable; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 9. KRS 281.990 is amended to read as follows:

(1) A person shall be fined not less than twenty-five dollars ($25) and no more than two hundred dollars ($200)~~[, or imprisoned for not more than thirty (30) days, or both]~~, if the person:

(a) Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;

(b) Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;

(c) Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or

(d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.

Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.

(2) (a) Any person who violates KRS 281.615(1) shall be fined not less than two thousand dollars ($2,000) nor more than three thousand five hundred dollars ($3,500)~~[, or imprisoned for not more than thirty (30) days or both]~~.

(b) Any person who operates as a motor carrier in violation of the terms of his or her certificate or permit shall be fined not less than two thousand dollars ($2,000) nor more than three thousand five hundred dollars ($3,500)~~[, or imprisoned for not more than thirty (30) days or both]~~.

(3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, the person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.

(4) A person who violates KRS 281.615(2) shall not be subject to a penalty under this section.

Section 10. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS ***189.223,*** 189.290, 189.393, 189.520, 189.580, ***235.240, 281.600,*** 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 11. KRS 431.452 is amended to read as follows:

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) ***When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.***

(3) An offense which is designated as subject to prepayment is subject to the following conditions:

(a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

(b) Designation as subject to prepayment ***shall***[~~does not~~] preclude a requirement that the defendant make a court appearance[~~ when so indicated~~] on a uniform citation[~~ when such is required by a peace officer pursuant to KRS 431.015~~];

(c) For any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 ***or subsection (2) of this section***;

(d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(4)[~~(3)~~]When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE"[~~ unless in his opinion because of the circumstances surrounding the offense:~~

~~(a) The commission of the offense created a substantial harm or threat of harm to lives or property; or~~

~~(b) The commission of the offense was, due to the nature of the circumstances, particularly aggravated or flagrant; or~~

~~(c) The defendant was known by the officer to have been convicted of the particular violation on a previous occasion or occasions.~~

~~(4) In the event the peace officer determines, pursuant to subsection (3) of this section, that the defendant should appear in court the officer shall mark the citation in such manner as to require court appearance on the appropriate date~~].

Section 12. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be:

(a) For an offense for which prepayment is permitted [~~under KRS 189.394, 431.451, or 431.452~~] and for which prepayment has been made prior to trial as required by law $42.00

(b) For an offense for which prepayment is not permitted or has not been made $67.00

(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in District Court criminal matters as follows:

(a) Preparing an attestation $0.50

(b) Preparing a certification $1.00

(c) Preparing a copy of a document (per page) $0.25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 13. KRS 149.093 is amended to read as follows:

If the violation of any section of this chapter is a misdemeanor and is committed in the presence of a forest warden or other law enforcement officer, and there are reasonable grounds to believe that the person being cited will appear to answer the charge, the warden or officer may, in lieu of a physical arrest directed by KRS 149.090, issue a citation as authorized by KRS 431.015, 431.450~~[, 431.451]~~, 431.452, and 431.455. The warden or officer may issue a warning without a penalty in lieu of a citation if the suspected offense is one cited in KRS 149.370, 149.375, 149.385, 149.390, 149.395, 149.400, 149.401, or 149.405.

Section 14. The following KRS section is repealed:

431.451 Delineation of offenses for which fines may and may not be prepaid.

The Committee Substitute No. 1 to **HB 919** is as follows:

HB 919, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) An offense where evidence of the commission of the offense, or of another offense, or a deadly weapon or dangerous instrument as defined in KRS 500.080 is seized and the citation is so marked and a court date set;

(b) An offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or

(c) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 2. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, ***150.445, 150.450, 150.470,*** 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1)~~[, 150.445]~~, 150.485, 150.600, 150.630, 150.660~~[, 150.450(1), 150.470]~~, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent

offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) An offense where evidence of the commission of the offense or another offense is seized by the officer and the citation is so marked and a court date set;

(b) The offense may result in a license suspension or revocation;

(c) The offense is cited with another offense that is not prepayable; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 4. KRS 177.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 177.230 to 177.310 shall be guilty of a misdemeanor and upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5) nor more than one hundred dollars ($100)~~[or by imprisonment in the city or county jail for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment]~~.

(2) Any person who willfully violates any of the provisions of KRS 177.841 to 177.890 shall, in addition to any other penalty herein provided, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) In addition to any other penalty provided by KRS 177.910 to 177.950, any person violating any order or provision of KRS 177.910 to 177.950 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day of violation of the provisions of KRS 177.910 to 177.950 shall constitute a separate offense.

(4) Any person who violates the weight provisions of KRS 177.9771 shall, upon conviction, be fined in an amount equal to three cents ($0.03) per pound when the excess is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds but is less than four thousand (4,000) pounds, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds but is less than five thousand (5,000) pounds, and nine

cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds. In no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(5) Any person who transports coal in violation of the weight provisions of KRS 189.221 and 189.222 and does not have a current decal or is not transporting coal under a valid cooperative agreement within KRS 177.9771(4)(f), shall, in addition to any applicable penalty prescribed by law, be fined five hundred dollars ($500) and be required to purchase the decal described in KRS 177.9771(4).

(6) Any person who violates the provisions of KRS 177.305 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) All offenses under this chapter classified as violations shall be prepayable except for:

(a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;

(b) Any offense relating to KRS 189.285, 189.393, 189.520, or 189.580;

(c) When the defendant is speeding in a restricted zone;

(d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;

(e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(f) The offense is cited with another offense that is not prepayable; or

(g) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided,~~[shall be guilty of a misdemeanor and]~~ shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars

($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

SECTION 7. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except for:

(a) Violations of KRS 235.240 and 235.285;

(b) An offense where evidence of the commission of the offense or another offense was seized and the citation is so marked and a court date set;

(c) The offense is cited with another offense that is not prepayable and the citation is so marked and a court date set; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

SECTION 8. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) All offenses classified as violations under this chapter shall be prepayable except:

(a) Any offense which could result in license suspension or revocation by the court;

(b) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;

(c) The offense is cited with another offense that is not prepayable; or

(d) An arrest is made under KRS 431.015.

(2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 9. KRS 281.990 is amended to read as follows:

(1) A person shall be fined not less than twenty-five dollars ($25) and no more than two hundred dollars ($200)~~[, or imprisoned for not more than thirty (30) days, or both]~~, if the person:

(a) Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;

(b) Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;

(c) Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or

(d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.

Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.

(2) (a) Any person who violates KRS 281.615(1) shall be fined not less than two thousand dollars ($2,000) nor more than three thousand five hundred dollars ($3,500)~~[, or imprisoned for not more than thirty (30) days or both]~~.

(b) Any person who operates as a motor carrier in violation of the terms of his or her certificate or permit shall be fined not less than two thousand dollars ($2,000) nor more than three thousand five hundred dollars ($3,500)~~[, or imprisoned for not more than thirty (30) days or both]~~.

(3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, the person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.

(4) A person who violates KRS 281.615(2) shall not be subject to a penalty under this section.

Section 10. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS ***189.223,*** 189.290, 189.393, 189.520, 189.580, ***235.240, 281.600,*** 511.080, or 525.070 committed in his presence or a violation of KRS 189A.010, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 11. KRS 431.452 is amended to read as follows:

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) ***When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.***

(3) An offense which is designated as subject to prepayment is subject to the following conditions:

(a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

(b) Designation as subject to prepayment ***shall***~~[does not]~~ preclude a requirement that the defendant make a court appearance~~[when so indicated]~~ on a uniform citation~~[when such is required by a peace officer pursuant to KRS 431.015]~~;

(c) For any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 ***or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph***;

(d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(4)~~[(3)]~~When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE"***, except as provided in KRS 431.015 or subsection (2) of this section***~~[unless in his opinion because of the circumstances surrounding the offense:~~

~~(a) The commission of the offense created a substantial harm or threat of harm to lives or property; or~~

~~(b) The commission of the offense was, due to the nature of the circumstances, particularly aggravated or flagrant; or~~

~~(c) The defendant was known by the officer to have been convicted of the particular violation on a previous occasion or occasions.~~

~~(4) In the event the peace officer determines, pursuant to subsection (3) of this section, that the defendant should appear in court the officer shall mark the citation in such manner as to require court appearance on the appropriate date]~~.

(5) The Administrative Office of the Courts, after consultation with the Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Division of Fish and Wildlife, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

Section 12. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be:

(a) For an offense for which prepayment is permitted

~~[under KRS 189.394, 431.451, or 431.452]~~ and for which prepayment has been made prior to trial as required by law $42.00

(b) For an offense for which prepayment is not permitted or has not been made $67.00

(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in District Court criminal matters as follows:

(a) Preparing an attestation $0.50

(b) Preparing a certification $1.00

(c) Preparing a copy of a document (per page) $0.25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 13. KRS 149.093 is amended to read as follows:

If the violation of any section of this chapter is a misdemeanor and is committed in the presence of a forest warden or other law enforcement officer, and there are reasonable grounds to believe that the person being cited will appear to answer the charge, the warden or officer may, in lieu of a physical arrest directed by KRS 149.090, issue a citation as authorized by KRS 431.015, 431.450~~[, 431.451]~~, 431.452, and 431.455. The warden or officer may issue a warning without a penalty in lieu of a citation if the suspected offense is one cited in KRS 149.370, 149.375, 149.385, 149.390, 149.395, 149.400, 149.401, or 149.405.

Section 14. The following KRS section is repealed:

431.451 Delineation of offenses for which fines may and may not be prepaid.

The Committee on Appropriations and Revenue reported **HB 502, HB 576, HB 577, HJR 83, HJR 84,** and **HJR 85** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 502, AN ACT relating to the financing for the budgetary operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2000, and for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2000-01	2001-02
General Fund	129,457,600	71,252,900
Restricted Funds	1,197,600	950,000
Federal Funds	373,400	261,700
Total	131,028,600	72,464,600

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	1999-00	2000-01	2001-02
General Fund	200,000	3,646,000	3,864,000
Restricted Funds		924,000	963,000
Total	200,000	4,570,000	4,827,000

c. State Planning Fund

	2000-01	2001-02
General Fund	500,000	500,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a $25,000 grant in each fiscal year to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1999-00	2000-01	2001-02
General Fund	200,000	133,603,600	75,616,900
Restricted Funds		2,121,600	1,913,000
Federal Funds		373,400	261,700
TOTAL	200,000	136,098,600	77,791,600

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2000-01	2001-02
General Fund	-0-	1,130,000
Restricted Funds	66,840,000	68,738,000
Road Funds	125,000	125,000
Total	66,965,000	69,993,000

Included in the above Restricted Funds appropriation is $520,000 in fiscal year 2000-2001 and $536,000 in fiscal year 2001-2002 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that directly benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

The General Fund appropriation above represents debt service on the Unified Criminal Justice Information System.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2000-01	2001-02
General Fund	7,141,300	14,042,800
Restricted Funds	12,456,700	16,357,600
Total	19,598,000	30,400,400

Included in the above General Fund appropriation is $203,400 in fiscal year 2000-2001 and $3,527,300 in fiscal year 2001-2002 for personnel and operating costs for the Eastern Kentucky Veterans' Center; $203,400 in fiscal year 2000-2001 and $3,445,900 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Center; $350,000 in each fiscal year for additional staffing for the Commissioner's Office and Field Services; and $206,000 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Cemetery.

4. SECRETARY OF STATE

	2000-01	2001-02
General Fund	2,416,400	2,468,700
Restricted Funds	154,000	165,000
Total	2,570,400	2,633,700

In accordance with the provision of KRS 14.140, at the close of fiscal year 1999-2000, any Restricted Funds amount received in the Limited Liability Companies program in excess of $154,000 shall be transferred to the General Fund. At the close of fiscal year 2000-2001, any Restricted Funds amount received in the Limited Liability Companies program in excess of $165,000 shall be transferred to the General Fund.

5. BOARD OF ELECTIONS

	2000-01	2001-02
General Fund	3,535,300	3,932,300
Restricted Funds	40,000	60,000
Total	3,575,300	3,992,300

Included in the above General Fund appropriation is $2,126,800 in fiscal year 2000-2001 and $2,461,000 in fiscal year 2001-02 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Included in the above General Fund appropriation, and subject to passage of enabling legislation, $150,000 is appropriated in fiscal year 2000-2001 and $152,700 in fiscal year 2001-2002 to provide an increase to all eligible precincts for election expenses. Additionally, as part of this legislation, the recommended maximum state payment rate is increased from the current level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 and KRS 117.343 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $4,000 in fiscal year 2000-2001 to pay the expense incurred every year of a Presidential election. In accordance with KRS 118.455 the state is required to pay per diem and mileage costs to each elector of President and Vice President of the United States, for each day they are at the State Capitol as an elector.

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700).

6. TREASURY

	2000-01	2001-02
General Fund	2,243,400	2,434,300
Restricted Funds	791,900	731,900
Total	3,035,300	3,166,200

Included in the Restricted Funds appropriation above is a nonrevenue recurring transfer from the Unclaimed Property Fund. In each year of the 2000-2002 biennium, $731,900 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

7. ATTORNEY GENERAL

	2000-01	2001-02
General Fund	13,625,600	14,514,700
Restricted Funds	7,542,300	7,796,900
Federal Funds	2,494,300	2,584,000
Total	23,662,200	24,895,600

Included in the above Restricted Funds appropriation is $119,400 in fiscal year 2000-2001 and $123,000 in fiscal year 2001-2002 for debt service in the Uninsured Employers Fund related to court-ordered interest payments in workers' compensation settlement cases.

8. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2000-01	2001-02
General Fund	21,076,900	22,109,700
Restricted Funds	322,500	179,900
Federal Funds	629,200	608,300

Total	22,028,600	22,897,900

Included in the above General Fund appropriation is $564,700 in fiscal year 2000-2001 and $458,400 in fiscal year 2001-2002 to allow part-time Commonwealth's Attorneys to become full-time.

There is appropriated from the General Fund in fiscal year 2000-2001 and fiscal year 2001-2002 the necessary funds, subject to the conditions and procedures provided in this Act, which are required to provide additional staff to handle workload generated from new judgeships or courts contingent upon passage of enabling legislation. These funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

b. County Attorneys

	2000-01	2001-02
General Fund	19,248,100	20,191,300
Restricted Funds	42,600	40,400
Federal Funds	251,900	264,100
Total	19,542,600	20,495,800

There is appropriated from the General Fund in fiscal year 2000-2001 and fiscal year 2001-2002 the necessary funds, subject to the conditions and procedures provided in this Act, which are required to provide additional staff to handle workload generated from new judgeships or courts contingent upon passage of enabling legislation. These funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2000-01	2001-02
General Fund	40,325,000	42,301,000
Restricted Funds	365,100	220,300
Federal Funds	881,100	872,400
TOTAL	41,571,200	43,393,700

9. AUDITOR OF PUBLIC ACCOUNTS

	2000-01	2001-02
General Fund	5,829,600	5,925,900
Restricted Funds	4,709,000	4,405,000
Total	10,538,600	10,330,900

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

10. AGRICULTURE

	2000-01	2001-02
General Fund	20,664,600	21,645,300
Restricted Funds	2,386,500	2,541,300
Federal Funds	2,035,000	2,034,800
Total	25,086,100	26,221,400

Included in the above General Fund appropriation is $800,000 in each fiscal year for regional university agriculture programs, to be equally distributed among the four universities.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended funds for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Department of Alcoholic Beverage Control shall jointly participate in the program's enforcement.

11. MILITARY AFFAIRS

	2000-01	2001-02
General Fund	10,937,400	11,274,100
Restricted Funds	18,433,400	19,113,400
Federal Funds	9,175,000	9,395,200
Total	38,545,800	39,782,700

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is an additional amount of $100,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for Disaster and Emergency Management County Offices.

12. PERSONNEL BOARD

	2000-01	2001-02
General Fund	584,400	593,300
Restricted Funds	5,000	6,100
Total	589,400	599,400

13. LOCAL GOVERNMENT

	2000-01	2001-02
General Fund	17,457,200	11,566,700
Restricted Funds	665,400	671,400
Federal Funds	47,080,800	44,080,800
Total	65,203,400	56,318,900

14. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2000-01	2001-02
General Fund	28,316,700	27,971,400

b. Local Government Economic Development Fund

	2000-01	2001-02
General Fund	33,305,300	35,583,600

The above appropriations from the General Fund are based on the official estimate of the Secretary of the Finance and Administration Cabinet for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of forty-one percent (41%) effective July 1, 2000, and forty-four percent (44%) effective July 1, 2001, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,420,000 in fiscal year 2000-2001 and $1,379,500 in fiscal year 2001-2002 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2000-2001 and $1,000,000 in fiscal year 2001-2002 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4585, effective July 15, 1998, the amount transferred annually from the Local Government Economic Development Fund (LGEDF) into the Local Government Economic Assistance Fund (LGEAF) under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002, has been transferred as Restricted Funds to the Coal County Development Office within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $537,600 in fiscal year 2000-2001 and $550,500 in fiscal year 2001-2002 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $938,300 in fiscal year 2000-2001 and $960,800 in fiscal year 2001-2002 has been credited to the Secondary Wood Products Development Fund in each year of the biennium.

Notwithstanding KRS 42.4588(2) and (4), beginning in fiscal year 1999-2000 and continuing in fiscal year 2000-2001 and fiscal year 2001-2002, twenty percent (20%) of the payments from the following LGEDF counties will be set aside for job training grants within coal counties: Bell, Boyd, Breathitt, Carter, Clay, Daviess, Floyd, Harlan, Henderson, Hopkins, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, McLean, Magoffin, Martin, Muhlenberg, Ohio, Owsley, Perry, Pike, Union, Webster, Whitley, and Wolfe. Union County will not participate in the program in fiscal year 1999-2000. The Coal County Development office will administer the job training grant program.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 1999-2000 to fiscal year 2000-2001 and from fiscal year 2000-2001 to fiscal year 2001-2002 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2000-01	2001-02
General Fund	1,000,000	1,000,000

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

d. Community Improvement Fund

	2000-01	2001-02
General Fund	1,000,000	1,000,000

TOTAL - SPECIAL FUNDS

	2000-01	2001-02
General Fund	63,622,000	65,555,000

15. COMMISSION ON HUMAN RIGHTS

	2000-01	2001-02
General Fund	2,051,000	2,129,400
Restricted Funds	12,000	12,400
Federal Funds	129,400	170,800
Total	2,192,400	2,312,600

16. COMMISSION ON WOMEN

	2000-01	2001-02
General Fund	261,000	265,900
Restricted Funds		3,200
Federal Funds	100	100
Total Funds	261,100	269,200

17. KENTUCKY RETIREMENT SYSTEMS

	2000-01	2001-02
Restricted Funds	11,713,400	13,863,000

18. REGISTRY OF ELECTION FINANCE

	2000-01	2001-02
General Fund	3,487,000	3,556,700
Restricted Funds	200,000	20,000
Total	3,687,000	3,576,700

Notwithstanding KRS 45.229, $1,000,000 of the General Fund appropriation from fiscal year 1999-2000 shall not lapse and shall carry forward to fiscal year 2000-2001 and $3,000,000 of the General Fund appropriation above from fiscal year 2000-2001 shall not lapse and shall carry forward into fiscal year 2001-2002 for the Election Campaign Fund.

19. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2000-01	2001-02
Restricted Funds	782,300	723,900

b. Alcohol and Drug Counselors

	2000-01	2001-02
Restricted Funds	78,300	89,700

c. Board of Architects

	2000-01	2001-02
Restricted Funds	204,700	218,800

d. Board of Art Therapists

	2000-01	2001-02
Restricted Funds	9,600	11,100

e. Kentucky Athletic Commission

	2000-01	2001-02
Restricted Funds	118,700	130,900

f. Board of Auctioneers

	2000-01	2001-02
Restricted Funds	340,600	351,000

g. Board of Barbering

	2000-01	2001-02
Restricted Funds	210,700	209,000

h. Board of Chiropractic Examiners

	2000-01	2001-02
Restricted Funds	162,400	173,800

i. Board of Dentistry

	2000-01	2001-02
Restricted Funds	436,300	461,500

j. Board of Dietitians and Nutritionists

	2000-01	2001-02
Restricted Funds	58,800	68,000

k. Board of Embalmers and Funeral Directors

	2000-01	2001-02
Restricted Funds	202,400	209,900

l. Board of Engineers and Land Surveyors

	2000-01	2001-02
Restricted Funds	1,092,400	1,134,100

m. Board of Fee-Based Pastoral Counselors

	2000-01	2001-02
Restricted Funds	17,200	20,600

n. Board of Geologists

	2000-01	2001-02
Restricted Funds	142,600	155,800

o. Board of Hairdressers and Cosmetologists

	2000-01	2001-02
Restricted Funds	981,800	1,041,300

p. Board of Hearing Instrument Specialists

	2000-01	2001-02
Restricted Funds	53,000	61,100

q. Board of Interpreters for Deaf and Hard of Hearing

	2000-01	2001-02
Restricted Funds	71,400	79,500

r. Board of Landscape Architects

	2000-01	2001-02
Restricted Funds	51,800	54,200

s. Board of Marriage and Family

	2000-01	2001-02
Restricted Funds	64,100	72,500

t. Board of Medical Licensure

	2000-01	2001-02
Restricted Funds	1,759,200	1,827,300

u. Board of Nursing

	2000-01	2001-02
Restricted Funds	3,277,700	3,354,100

Included in the above Restricted Funds appropriation is $200,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2000-01	2001-02
Restricted Funds	85,000	89,000

w. Board of Occupational Therapy

	2000-01	2001-02
Restricted Funds	66,800	76,600

x. Board of Ophthalmic Dispensers

	2000-01	2001-02
Restricted Funds	46,800	55,200

y. Board of Optometric Examiners

	2000-01	2001-02
Restricted Funds	146,700	143,800

z. Board of Pharmacy

	2000-01	2001-02
Restricted Funds	752,800	786,600

aa. Board of Physical Therapy

	2000-01	2001-02
Restricted Funds	297,800	301,100

ab. Board of Podiatry

	2000-01	2001-02
Restricted Funds	13,500	13,500

ac. Board of Professional Counselors

	2000-01	2001-02

Restricted Funds	42,000	46,800

ad. Board of Psychology

	2000-01	2001-02
Restricted Funds	195,600	207,900

ae. Real Estate Appraisers Board

	2000-01	2001-02
Restricted Funds	495,500	511,700

af. Real Estate Commission

	2000-01	2001-02
Restricted Funds	1,888,800	1,911,400

Included in the above Restricted Funds appropriation is $797,500 in fiscal year 2000-2001 and $800,000 in fiscal year 2001-2002 for Real Estate Education and Recovery.

ag. Board of Respiratory Care

	2000-01	2001-02
Restricted Funds	100,600	111,300

ah. Board of Social Workers

	2000-01	2001-02
Restricted Funds	123,000	140,000

ai. Board of Speech Pathologists and Audiologists

	2000-01	2001-02
Restricted Funds	96,900	109,000

aj. Board of Veterinary Examiners

	2000-01	2001-02
Restricted Funds	175,000	197,900

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2000-01	2001-02
Restricted Funds	14,642,800	15,149,900

20. GOVERNMENTAL SERVICES CENTER

	2000-01	2001-02
Restricted Funds	1,478,000	1,512,000

21. EXECUTIVE BRANCH ETHICS COMMISSION

	2000-01	2001-02
General Fund	295,000	310,000
Restricted Funds	6,000	10,000
Total	301,000	320,000

22. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2000-01	2001-02
General Fund	35,000,000	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 1999-2000 or fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal years 2000-2001 and 2001-2002, respectively.

b. Attorney General Expense

	1999-00	2000-01	2001-02
General Fund	470,000	225,000	225,000

c. Board of Claims Awards

	2000-01	2001-02
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $1,500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2000-01	2001-02
General Fund	2,000,000	2,000,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2000-01	2001-02
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2000-01	2001-02
General Fund	500,000	500,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2000-01	2001-02
General Fund	50,000	50,000

h. Frankfort in Lieu of Taxes

	2000-01	2001-02
General Fund	195,000	195,000

i. Frankfort Cemetery

	2000-01	2001-02
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2000-01	2001-02
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2000-01	2001-02
General Fund	240,000	264,000

l. Master Commissioner--Social Security

	2000-01	2001-02
General Fund	216,000	226,000

m. Workers' Compensation

	2000-01	2001-02
General Fund	288,000	288,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2000-01	2001-02
General Fund	50,000	50,000

o. Blanket Employee Bonds

General Fund	200,000	-0-

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1999-00	2000-01	2001-02
General Fund	470,000	40,216,500	5,050,500

Included in the above appropriations is $0 in fiscal year 2000-2001 and $0 in fiscal year 2001-2002 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

TOTAL - GOVERNMENT OPERATIONS

	1999-00	2000-01	2001-02
General Fund	670,000	368,296,300	284,313,500
Restricted Funds		144,563,100	153,290,400
Federal Funds		62,169,100	59,399,800
Road Funds		125,000	125,000
TOTAL	670,000	575,153,500	497,128,700

B. CABINET FOR ECONOMIC DEVELOPMENT

23. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Economic Development

	2000-01	2001-02
General Fund	14,481,000	12,958,000
Restricted Funds	5,179,000	5,350,000
Federal Funds	160,000	160,000
Total	19,820,000	18,468,000

Included in the above Restricted Funds appropriations is $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 for the East Kentucky Jobs Creation Corporation and $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 for the West Kentucky Jobs Creation Corporation. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue. Also included in the above Restricted Funds appropriations is $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office will be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 for the Kentucky Technology Service Grant program each fiscal year of the biennium.

Included in the Restricted Funds appropriation above is $381,000 in fiscal year 2000-2001 and $381,000 in fiscal year 2001-2002 for the Louisville Waterfront Development Corporation.

The General Fund appropriation for fiscal year 1999-2000 and for fiscal year 2000-2001 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded, shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

b. Debt Service

	2000-01	2001-02

General Fund		406,000

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2000-01	2001-02
General Fund	14,481,000	13,364,000
Restricted Funds	5,179,000	5,350,000
Federal Funds	160,000	160,000
TOTAL	19,820,000	18,874,000

C. EDUCATION

24. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2000-01	2001-02
General Fund	2,222,363,600	2,261,257,800

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,586,762,900 in fiscal year 2000-2001 and $1,618,228,300 in fiscal year 2001-2002 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $194,422,200 in fiscal year 2000-2001 and $199,086,700 in fiscal year 2001-2002 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $125,975,600 in fiscal year 2000-2001 and $123,066,500 in fiscal year 2001-2002 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,381,200 in fiscal year 2000-2001 and $2,416,900 in fiscal year 2001-2002 for vocational transportation.

Included in the above appropriation is $20,468,500 in fiscal year 2000-2001 and $21,452,600 in fiscal year 2001-2002 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $46,209,700 in fiscal year 2000-2001 and $44,152,000 in fiscal year 2001-2002 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $246,143,500 in fiscal year 2000-2001 and $252,854,800 in fiscal year 2001-2002 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	2000-01	2001-02
General Fund	2,587,700	2,660,400
Restricted Funds	427,200	425,400
Federal Funds	538,600	551,500
Total	3,553,500	3,637,300

c. Management Support Services

	2000-01	2001-02
General Fund	390,374,400	420,026,000
Restricted Funds	3,090,500	2,989,500
Federal Funds	172,455,500	176,555,400
Total	565,920,400	599,570,900

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in each fiscal year for reimbursement to local school districts for the Out-of-District Children Program.

Included in the above General Fund appropriation is $261,274,800 in fiscal year 2000-2001 and $289,848,100 in fiscal year 2001-2002 to provide health and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $2,463,700 in fiscal year 2000-2001 and $2,522,900 in fiscal year 2001-2002 to enable the Department of Education to provide the employer match for qualified employees as provided by KRS

161.550.

Included in the above General Fund appropriation is $339,000 in fiscal year 2001-2002 for debt service on new projects.

d. Learning Support Services

	1999-00	2000-01	2001-02
General Fund	865,400	186,190,800	190,239,100
Restricted Funds		3,604,200	3,571,300
Federal Funds		292,032,300	298,881,900
Total	865,400	481,827,300	492,692,300

Included in the above General Fund appropriation is $10,000,000 in each fiscal year for the school rewards escrow account. Also included in the above General Fund appropriation is $5,742,200 in fiscal year 2000-2001 and $5,974,800 in fiscal year 2001-2002 for the Kentucky School for the Blind, and $9,226,500 in fiscal year 2000-2001 and $9,668,300 in fiscal year 2001-2002 for the Kentucky School for the Deaf.

TOTAL - EDUCATION

	1999-00	2000-01	2001-02
General Fund	865,400	2,801,516,500	2,874,183,300
Restricted Funds		7,121,900	6,986,200
Federal Funds		465,026,400	475,988,800
TOTAL	865,400	3,273,664,800	3,357,158,300

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

25. OFFICE OF THE SECRETARY

	2000-01	2001-02
General Fund	2,707,100	2,771,500
Restricted Funds	70,400	70,400
Total	2,777,500	2,841,900

Included in the above General Fund appropriation is $4,100 in fiscal year 2000-2001 and $4,200 in fiscal year 2001-2002 for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is $1,191,400 in fiscal year 2000-2001 and $1,220,000 in fiscal year 2001-2002 for the Governor's Scholars Program.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Governor's School for the Arts.

26. KENTUCKY ARTS COUNCIL

	2000-01	2001-02
General Fund	4,342,400	4,472,600
Restricted Funds	448,500	456,500
Federal Funds	600,000	611,300
Total	5,390,900	5,540,400

27. TEACHERS' RETIREMENT SYSTEM

	2000-01	2001-02
General Fund	75,829,500	82,222,300
Restricted Funds	5,696,400	6,021,000
Total	81,525,900	88,243,300

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2000-2001 or fiscal year 2001-2002 for the cost of administration.

Included in the above General Fund appropriation is $2,311,500 in fiscal year 2000-2001 and $5,925,000 in fiscal year 2001-2002 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent (2.3%) in fiscal year 2000-2001 and an additional two and one-half percent (2.5%) in fiscal year 2001-2002.

Included in the above General Fund appropriation is $3,698,800 in fiscal year 2000-2001 and $7,886,400 in fiscal year 2001-2002 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2000-2002 biennium.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2000-01	2001-02
General Fund	72,145,200	79,030,500

Included in the above General Fund appropriation is $70,107,700 in fiscal year 2000-2001 and $70,687,300 in fiscal year 2001-2002 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $1,800,000 in fiscal year 2000-2001 and $8,100,000 in fiscal year 2001-2002 for debt service for previously authorized bonds.

The School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2000-2002 biennium in anticipation of debt service availability during the 2002-2004 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2000-2002 biennium.

29. DEAF AND HARD OF HEARING

	2000-01	2001-02
General Fund	881,900	902,100
Restricted Funds	200,000	200,000
Total	1,081,900	1,102,100

30. KENTUCKY HERITAGE COUNCIL

	2000-01	2001-02
General Fund	989,200	1,046,500
Restricted Funds	246,800	256,300
Federal Funds	795,800	795,800
Total	2,031,800	2,098,600

31. KENTUCKY EDUCATIONAL TELEVISION

	2000-01	2001-02
General Fund	15,173,200	17,039,500
Restricted Funds	1,146,300	1,226,500
Federal Funds	700,000	700,000
Total	17,019,500	18,966,000

Included in the above General Fund appropriation is $1,564,000 in fiscal year 2001-2002 for debt service on new projects.

32. KENTUCKY HISTORICAL SOCIETY

	2000-01	2001-02
General Fund	6,188,700	6,408,200
Restricted Funds	521,400	643,400
Federal Funds	111,100	413,100
Total	6,821,200	7,464,700

33. LIBRARIES AND ARCHIVES

a. General Operations

	2000-01	2001-02
General Fund	6,844,700	7,318,900
Restricted Funds	1,822,600	1,879,700
Federal Funds	1,684,900	1,724,700
Total	10,352,200	10,923,300

Included in the above General Fund appropriation is $230,000 in fiscal year 2001-2002 for debt service on new projects.

b. Direct Local Aid

	2000-01	2001-02
General Fund	6,675,500	6,675,500
Restricted Funds	9,000	9,000
Federal Funds	576,000	576,000
Total	7,260,500	7,260,500

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2000-01	2001-02
General Fund	13,520,200	13,994,400
Restricted Funds	1,831,600	1,888,700
Federal Funds	2,260,900	2,300,700
Total	17,612,700	18,183,800

34. KENTUCKY CENTER FOR THE ARTS

	2000-01	2001-02
General Fund	640,500	655,900

35. ENVIRONMENTAL EDUCATION COUNCIL

	2000-01	2001-02
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2000-01	2001-02
General Fund	192,417,900	208,543,500
Restricted Funds	10,311,400	10,912,800
Federal Funds	4,467,800	4,820,900
TOTAL	207,197,100	224,277,200

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

36. COMMUNITY BASED SERVICES

	2000-01	2001-02
General Fund	283,797,400	295,980,300
Restricted Funds	93,754,000	98,361,900
Federal Funds	431,079,900	445,343,500
Total	808,631,300	839,685,700

Notwithstanding KRS 45.229, General Fund moneys for the Wage Equity Program in the amount of $4,172,500 shall continue from fiscal year 2000-2001 into fiscal year 2001-2002.

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

Due to the demands placed upon the Cabinet to meet the increasing participation rates required for welfare reform, and in order to meet the state match requirements for the Welfare to Work Program, any General Fund appropriation unexpended in fiscal year 1999-2000 of up to $8,500,000 and in fiscal year 2000-2001 of up to $2,500,000 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act.

37. ADMINISTRATION SERVICES

	2000-01	2001-02
General Fund	30,593,000	31,283,500
Restricted Funds	4,202,300	4,187,600
Federal Funds	36,148,800	37,711,300
Total	70,944,100	73,182,400

Included in the above General Fund appropriation is $226,800 in fiscal year 2000-2001 and $232,200 in fiscal year 2001-2002, and in the Federal Funds appropriation is $2,970,700 in fiscal year 2000-2001 and $2,978,400 in fiscal year 2001-2002 for the Kentucky Commission on Community Volunteerism and Service which was transferred from the Council on Postsecondary Education to the Cabinet for Families and Children by Executive Order 2000-8.

38. DISABILITY DETERMINATIONS

	2000-01	2001-02
Restricted Funds	74,000	75,800
Federal Funds	37,418,900	38,559,100
Total Funds	37,492,900	38,634,900

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2000-01	2001-02
General Fund	314,390,400	327,263,800
Restricted Funds	98,030,300	102,625,300
Federal Funds	504,647,600	521,613,900
Total	917,068,300	951,503,000

F. FINANCE AND ADMINISTRATION CABINET

39. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2000-01	2001-02
General Fund	12,430,000	12,538,000
Restricted Funds	3,484,000	3,644,000
Federal Funds	58,148,000	58,197,000
Total	74,062,000	74,379,000

Included in the above General Fund appropriation is $200,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Debt Service

	2000-01	2001-02
General Fund	218,214,000	238,086,000
Road Fund	3,665,000	3,668,000
Total	221,879,000	241,754,000

Included in the above General Fund appropriation is $7,387,000 in fiscal year 2000-2001 and $27,455,000 in fiscal year 2001-2002 for new debt service.

c. Administration

	2000-01	2001-02
General Fund	3,808,000	3,809,000
Restricted Funds	9,039,000	9,121,000
Road Fund	277,000	283,000
Total	13,124,000	13,213,000

d. Facilities Management

	2000-01	2001-02
General Fund	8,640,000	8,867,000
Restricted Funds	20,634,000	21,014,000
Total	29,274,000	29,881,000

e. County Costs

	1999-00	2000-01	2001-02
General Fund	1,632,000	18,899,000	20,881,000
Restricted Funds		1,327,000	1,327,000
Total	1,632,000	20,226,000	22,208,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2000-2001 and $5,431,000 in fiscal year 2001-2002 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

f. County Fees

	1999-00	2000-01	2001-02
Restricted Funds	16,154,100	71,212,900	74,664,400

TOTAL - FINANCE AND ADMINISTRATION CABINET

		2000-01	2001-02
General Fund	1,632,000	261,991,000	284,181,000
Restricted Funds	16,154,100	105,696,900	109,770,400
Federal Funds		58,148,000	58,197,000
Road Fund		3,942,000	3,951,000
TOTAL	17,786,100	429,777,900	456,099,400

G. CABINET FOR HEALTH SERVICES

Budget Units

40. MEDICAID SERVICES

a. Administration

	2000-01	2001-02
General Fund	21,430,700	22,174,300
Restricted Funds	10,981,000	10,811,600
Federal Funds	32,756,500	32,626,700
Total	65,168,200	65,612,600

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

b. Benefits

	2000-01	2001-02
General Fund	714,130,000	769,163,000
Restricted Funds	226,448,500	213,744,900
Federal Funds	2,268,404,800	2,368,057,500
Total	3,208,983,300	3,350,965,400

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 1999-2000 and 2000-2001 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

41. PUBLIC HEALTH

	1999-00	2000-01	2001-02
General Fund		77,135,700	85,353,300
Restricted Funds		12,911,400	15,606,300
Federal Funds	437,500	122,036,400	122,032,300
Total	437,500	212,083,500	222,991,900

Notwithstanding other provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe user fee amounts which are provided in the applicable agency fund appropriations.

42. MENTAL HEALTH/MENTAL RETARDATION

	2000-01	2001-02
General Fund	171,423,300	182,477,200
Restricted Funds	147,311,800	154,320,100
Federal Funds	45,592,300	45,730,000
Total	364,327,400	382,527,300

Included in the above General Fund appropriation is $646,000 in fiscal year 2001-2002 for debt service on new projects.

43. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2000-01	2001-02
General Fund	7,107,400	6,842,400
Restricted Funds	3,495,100	3,179,000
Federal Funds	4,668,800	4,669,000
Total	15,271,300	14,690,400

44. CERTIFICATE OF NEED

	2000-01	2001-02
Restricted Funds	470,100	492,100

45. AGING SERVICES

	2000-01	2001-02
General Fund	23,842,000	24,394,500
Restricted Funds	4,965,500	5,471,300
Federal Funds	17,153,800	17,148,600
Total	45,961,300	47,014,400

46. ADMINISTRATIVE SUPPORT

	2000-01	2001-02
General Fund	9,191,600	9,492,900
Restricted Funds	9,707,100	8,676,500
Federal Funds	8,710,700	10,618,200
Total	27,609,400	28,787,600

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

The enacted fiscal year 1999-2000 appropriation in House Bill 321 (1998 Ky. Acts ch. 615) includes $65,700 from the General Fund which is authorized to be provided to the new Office of Women's Health, which is being established within the Administrative Support appropriation unit in accordance with KRS 194A.095, from the Office of Certificate of Need.

Included in the above General Fund appropriation is $384,000 in fiscal year 2001-2002 for debt service on new projects.

TOTAL - CABINET FOR HEALTH SERVICES

		2000-01	2001-02
General Fund		1,024,260,700	1,099,897,600
Restricted Funds		416,290,500	412,301,800
Federal Funds	437,500	2,499,323,300	2,600,882,300
TOTAL	437,500	3,939,874,500	4,113,081,700

H. JUSTICE CABINET

47. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2000-01	2001-02
General Fund	7,663,900	7,603,900
Restricted Funds	1,657,400	1,619,000

Federal Funds	13,087,800	13,087,800
Total	22,409,100	22,310,700

Included in the above General Fund appropriation is $1,106,400 in fiscal year 2000-2001 and $1,133,000 in fiscal year 2001-2002 for operation of the State Parole Board.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year to provide free civil legal services for indigents.

Included within the above Restricted Funds appropriation is $330,000 in fiscal year 2000-2001 and $330,000 in fiscal year 2001-2002 to support the Criminal Justice Council. These Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF). Any provisions to the contrary codified in KRS 15.430, 42.190, or 136.392 are suspended.

b. State Police

	2000-01	2001-02
General Fund	83,141,300	89,861,600
Restricted Funds	5,431,900	5,274,800
Road Fund	30,000,000	30,000,000
Federal Funds	9,960,600	8,144,700
Total	128,533,800	133,281,100

Included in the above General Fund appropriation is $271,000 in fiscal year 2001-2002 for new debt service to fund the portion of the Unified Criminal Justice Information System related to the State Police database operations.

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2000-01	2001-02
Restricted Funds	31,858,600	33,679,900
Federal Funds	1,190,000	1,190,000
Total	33,048,600	34,869,900

Included in the above appropriation is $19,537,000 in fiscal year 2000-2001 and $19,985,200 in fiscal year 2001-2002 for training incentive payments pursuant to KRS 15.430 and KRS 15.440 from receipts pursuant to KRS 136.392. Also included in the above Restricted Funds appropriation, and subject to passage of enabling legislation in the 2000 Regular Session of the General Assembly, is $716,400 in fiscal year 2000-2001 and $733,200 in fiscal year 2001-2002 for an increase in training incentive payments to each participant. The increase equates to $100 per qualified individual in fiscal year 2000-2001 for a total of $3,100 in fiscal year 2000-2001 and $3,100 in fiscal year 2001-2002 for each participant.

Also included in the appropriation above is $3,165,000 for debt service in fiscal year 2000-2001 and $3,165,000 in fiscal year 2001-2002 for bonds previously issued. New debt service in the amount of $706,000 in fiscal year 2001-2002 is appropriated and included above for a new Law Enforcement Physical Training Facility on the campus of Eastern Kentucky University.

Notwithstanding KRS 15.430, 42.190, or 136.392, funds unexpended at the end of fiscal year 1999-2000 and fiscal year 2000-2001 shall not lapse but shall be carried forward into the following fiscal year.

d. Juvenile Justice

	2000-01	2001-02
General Fund	78,735,700	94,590,200
Restricted Funds	16,789,800	18,550,000
Federal Funds	19,812,000	19,312,000
Total	115,337,500	132,452,200

Included in the above General Fund appropriation is $2,925,000 in fiscal year 2001-2002 for debt service for the construction of a secure juvenile detention facility in Fayette County, a combined residential/detention facility in Hardin County, an educational building addition at Woodsbend Youth Development Center in Morgan County, and a 100-bed replacement facility for three existing juvenile treatment centers in Jefferson County.

TOTAL - JUSTICE OPERATIONS

	2000-01	2001-02
General Fund	169,540,900	192,055,700
Restricted Funds	55,737,700	59,123,700

Road Fund	30,000,000	30,000,000
Federal Funds	44,050,400	41,734,500
Total	299,329,000	322,913,900

48. CORRECTIONS

Budget Units

a. Corrections Management

	2000-01	2001-02
General Fund	15,393,900	28,969,600
Restricted Funds	12,679,100	13,241,200
Federal Funds	1,224,400	224,500
Total	29,297,400	42,435,300

Included in the above General Fund appropriation is $12,211,000 in fiscal year 2001-2002 for new debt service related to renovation or construction of correctional facilities.

b. Community Services and Local Facilities

	2000-01	2001-02
General Fund	74,741,300	80,758,500
Restricted Funds	625,000	625,000
Total	75,366,300	81,383,500

c. Adult Correctional Institutions

	2000-01	2001-02
General Fund	185,006,200	197,125,500
Restricted Funds	4,428,800	4,458,600
Federal Funds	150,000	150,000
Total	189,585,000	201,734,100

d. Local Jail Support

	2000-01	2001-02
General Fund	14,918,100	15,276,100

Included in the General Fund appropriation is $909,300 in fiscal year 2000-2001 and $931,100 in fiscal year 2001-2002 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $300,000 in fiscal year 2000-2001 and $300,000 in fiscal year 2001-2002 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2000-01	2001-02
General Fund	290,059,500	322,129,700
Restricted Funds	17,732,900	18,324,800
Federal Funds	1,374,400	374,500
Total	309,166,800	340,829,000

TOTAL - JUSTICE CABINET

	2000-01	2001-02
General Fund	459,600,400	514,185,400
Restricted Funds	73,470,600	77,448,500
Federal Funds	45,424,800	42,109,000
Road Fund	30,000,000	30,000,000
TOTAL	608,495,800	663,742,900

I. LABOR

49. LABOR CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	1,445,600	1,458,700
Restricted Funds	5,291,800	5,384,200
Total	6,737,400	6,842,900

b. Workplace Standards

	2000-01	2001-02
General Fund	2,024,800	2,080,700
Restricted Funds	131,541,200	130,275,200
Federal Funds	3,453,000	3,453,000
Total	137,019,000	135,808,900

c. Workers' Claims

	2000-01	2001-02
Restricted Funds	14,942,300	15,806,800

d. Kentucky Occupational Safety and Health Review Commission

	2000-01	2001-02
Restricted Funds	429,800	443,100

TOTAL - LABOR CABINET

	2000-01	2001-02
General Fund	3,470,400	3,539,400
Restricted Funds	152,205,100	151,909,300
Federal Funds	3,453,000	3,453,000
TOTAL	159,128,500	158,901,700

Budget Unit

50. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2000-01	2001-02
General Fund	19,000,000	19,000,000
Restricted Funds	135,164,000	135,220,600
Total	154,164,000	154,220,600

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds equaling a fifteen percent (15%) share of the Labor Cabinet's Office of Safety and Health Education Training shall be transferred in both fiscal years from the Special Fund to Mines and Minerals.

TOTAL - LABOR

	2000-01	2001-02
General Fund	22,470,400	22,539,400
Restricted Funds	287,369,100	287,129,900
Federal Funds	3,453,000	3,453,000
TOTAL	313,292,500	313,122,300

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

51. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	9,488,300	9,705,600
Restricted Funds	443,100	426,600

Federal Funds	1,758,000	1,826,500
Total	11,689,400	11,958,700

b. Environmental Protection

	2000-01	2001-02
General Fund	23,591,100	24,245,900
Restricted Funds	20,834,300	21,391,100
Federal Funds	17,807,300	17,904,500
Total	62,232,700	63,541,500

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is $206,000 in fiscal year 2001-2002 in debt service for a $2,000,000 new bond authorization for state-owned dam repairs.

c. Natural Resources

	2000-01	2001-02
General Fund	14,335,700	15,660,800
Restricted Funds	5,198,000	5,215,100
Federal Funds	4,032,900	3,768,600
Total	23,566,600	24,644,500

Included in the above General Fund appropriation is $705,000 for debt service for $5,604,000 in new bond authorizations.

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2000-01	2001-02
General Fund	10,263,500	10,669,600
Restricted Funds	6,184,000	6,533,900
Federal Funds	16,245,500	16,719,600
Total	32,693,000	33,923,100

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2000-01	2001-02
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2000-01	2001-02
General Fund	57,678,600	60,281,900
Restricted Funds	32,659,400	33,566,700
Federal Funds	61,843,700	62,219,200
TOTAL	152,181,700	156,067,800

Budget Units

52. KENTUCKY RIVER AUTHORITY

	2000-01	2001-02
General Fund	377,900	387,000
Restricted Funds	1,345,600	1,579,900

Total	1,723,500	1,966,900

Included in the above Restricted Funds appropriation is $203,000 in fiscal year 2000-2001 and $406,000 in fiscal year 2001-2002 for debt service for $4,000,000 in previously authorized bonds.

53. ENVIRONMENTAL QUALITY COMMISSION

	2000-01	2001-02
General Fund	267,700	264,900
Restricted Funds	6,600	1,000
Total	274,300	265,900

54. KENTUCKY NATURE PRESERVES COMMISSION

	2000-01	2001-02
General Fund	956,100	978,300
Restricted Funds	338,300	321,700
Federal Funds	25,000	25,000
Total	1,319,400	1,325,000

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2000-01	2001-02
General Fund	59,280,300	61,912,100
Restricted Funds	34,349,900	35,469,300
Federal Funds	61,868,700	62,244,200
TOTAL	155,498,900	159,625,600

K. PERSONNEL CABINET

55. PERSONNEL CABINET

Budget Units

a. General Operations

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,438,300	3,517,300
Restricted Funds	4,000,000	10,293,100	10,386,000
Total	11,000,000	13,731,400	13,903,300

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect $5.00 per month per employee eligible for health insurance coverage in the state group for those agencies utilizing the state payroll system and $4.00 per employee eligible for health insurance coverage in the state group utilizing their own payroll system from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program. Members of the state group utilizing the state payroll system will pay $5.00 per month beginning January 1, 2000.

b. Public Employees Deferred Compensation Authority

	2000-01	2001-02
Restricted Funds	4,915,600	5,740,700

c. Workers' Compensation Benefits and Reserve

	2000-01	2001-02
Restricted Funds	15,382,700	15,901,500

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,438,300	3,517,300
Restricted Funds	4,000,000	30,591,400	32,028,200
TOTAL	11,000,000	34,029,700	35,545,500

L. POSTSECONDARY EDUCATION

Budget Units

56. COUNCIL ON POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	62,978,800	137,638,400
Restricted Funds	3,785,900	5,380,100
Federal Funds	1,100,000	1,100,000
Total	67,864,700	144,118,500

The General Assembly reaffirms its commitment to the spirit, intent, and goals of the Kentucky Postsecondary Education Improvement Act of 1997. The General Assembly recognizes the continued need to provide improved access to postsecondary education for all of Kentucky's citizens. The General Assembly continues to encourage collaboration among all of the state postsecondary institutions. The General Assembly supports the budget recommendations on the Council on Postsecondary Education.

Included in the above appropriation is $6,564,600 in fiscal year 2000-2001 and $2,626,200 in fiscal year 2001-2002 for the Environmental Program to Stimulate Competitive Research (EPSCoR) program. Notwithstanding the provisions of KRS 45.229, funding for the EPSCoR program in fiscal year 2000-2001 not to exceed $2,000,000 shall continue into fiscal year 2001-2002 for this purpose.

Included in the above General Fund appropriation is $42,405,000 in fiscal year 2000-2001 and $120,730,000 in fiscal year 2001-2002 for the Strategic Investment and Incentive Funding Program as established by the Postsecondary Education Improvement Act of 1997.

The following trust funds and dollar amounts make up the Strategic Investment and Incentive Trust Funding Program for fiscal year 2000-2001 and 2001-2002. Included in the above appropriation is $5,505,500 in fiscal year 2000-01 and $9,380,000 in fiscal year 2001-2002 for the Research Challenge Trust Fund. Included in the above appropriation is $15,700,000 in fiscal year 2001-2002 for the Regional University Excellence Trust Fund. Included in the above appropriation in fiscal year 2001-2002 is $7,500,000 for the Technology Initiative Trust Fund. Included in the above appropriation is $20,900,000 in fiscal year 2001-2002 for the Physical Facilities Trust Fund. Included in the above appropriation is $8,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the Postsecondary Workforce Development Trust Fund. Included in the above appropriation is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 for the Student Financial Aid and Advancement Trust Fund. Included in the above appropriation is $7,000,000 in fiscal year 2000-2001 and $12,000,000 in fiscal year 2001-2002 for the Adult Education and Literacy Trust Fund. Included in the above appropriation is $4,250,000 in fiscal year 2001-2002 for the Science and Technology Trust Fund.

Included in the above appropriation for the Research Challenge Trust Fund is $5,505,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002 for lung cancer research, and $3,300,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program. Notwithstanding the provisions of KRS 164.7917(1)(b) and (c), the guidelines regarding matching requirements and distribution of funding to the University of Kentucky and the University of Louisville shall be made by the Council on Postsecondary Education.

Included in the above appropriation for the Regional University Excellence Trust Fund is $5,700,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program that, notwithstanding the provisions of KRS 164.7919(1)(b) and (c), will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriation for the Regional University Excellence Trust Fund is $10,000,000 in fiscal year 2001-2002 for the Action Agenda Program that shall be allocated among the comprehensive universities as prescribed by KRS 164.7919(1)(b). The Council on Postsecondary Education is encouraged to allocate $4,000,000 of the Action Agenda Program funding to initiatives addressing issues of teacher quality, pre-service training and in-service professional development, as identified by the recommendations of the Teacher Quality Task Force.

Included in the above General Fund appropriation for the Technology Initiative Trust Fund is $3,800,000 in fiscal year 2001-2002 for debt service for the Equipment Replacement Pool authorized in Part II, $1,200,000 in fiscal year 2001-2002 for expansion of Communications Network Infrastructure used by postsecondary education and $1,000,000 in fiscal year 2001-2002 for the Faculty Development Program.

Included in the above appropriation for the Physical Facilities Trust Fund is $3,018,000 in fiscal year 2001-2002 for debt service to support the Capital Renewal and Maintenance Pool authorized in Part II, $10,436,000 in fiscal year 2001-2002 for debt service to support Renovation, Replacement and Infrastructure Projects at various institutions as authorized in Part II, and $7,446,000 in fiscal year 2001-2002 for debt service to support New Construction Projects as authorized in Part II.

Included in the above appropriations for the Student Financial Aid and Advancement Trust Fund is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 to meet the funding requirements of Senate Bill 21 as enacted by the 1998 General Assembly. Notwithstanding the provisions of Senate Bill 21 as enacted by the 1998 General Assembly, funding in excess of the scholarship requirements may be used for the Kentucky National Guard Tuition Assistance Program, the Council on Postsecondary Education Contract Spaces Program, and the Council on Postsecondary Education Public Communication

Campaign. Merit scholarship dollars for the Kentucky Educational Excellence Scholarship (KEES) program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 General Assembly as the highest priority use of these funds.

Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $7,000,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program that will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $6,000,000 in fiscal year 2000-2001 and $6,000,000 in fiscal year 2001-2002 for the Workforce Training Program. Funding for the Workforce Training Program shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College System (KCTCS) program offerings. The Council on Postsecondary Education is encouraged to allocate at least $2,000,000 each year of the Workforce Training Program appropriations for high-tech training consistent with the proposed Knowledge Based Economy Initiative. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $2,000,000 in each year to continue implementation of the administrative information software systems necessary for KCTCS to function as an institution in the Kentucky system of postsecondary education.

Appropriations to the Science and Technology Trust Fund are provided to implement the recommendations included in the Kentucky Science and Technology Strategy developed by the Kentucky Science and Technology Corporation for which responsibility is assigned to the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $3,000,000 in fiscal year 2001-2002 to support advanced scientific research at all the universities to be allocated by the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $750,000 in fiscal year 2001-2002 for technology transfer of research into marketable products. Included in the above appropriation for the Science and Technology Trust Fund is $500,000 in fiscal year 2001-2002 for the establishment of regional postsecondary-based corporations to help rural industries access new markets.

Included in the above appropriations for the Adult Education and Literacy Trust Fund is $2,000,000 in fiscal year 2000-2001 and $2,000,000 in fiscal year 2001-2002 to support county and regional strategies, statewide initiatives, and research and development activities. Included in the above appropriations for the Adult Education and Literacy Trust Fund is $5,000,000 in fiscal year 2000-2001 and $10,000,000 in fiscal year 2001-2002 for additional services as determined by the statewide strategic agenda to be developed by the Council on Postsecondary Education in collaboration with the Department for Adult Education and Literacy. Funding in the Adult Education and Literacy Trust Fund shall not be used to fund tuition discounts for students attending institutions of postsecondary education.

57. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2000-01	2001-02
General Fund	51,100,000	51,489,000
Restricted Funds	36,565,300	46,507,900
Federal Funds	325,000	325,000
Total	87,990,300	98,321,900

Included in the above General Fund appropriation is $1,983,300 in fiscal year 2000-2001 and $2,022,500 in fiscal year 2000-2002 for the Teacher's Scholarship Program. Included in the above Restricted Funds appropriation is $906,000 in debt service in fiscal year 2001-2002.

Included in the above Restricted Funds appropriation is $1,000,000 each fiscal year for the Kentucky Higher Education Assistance Authority's Work Study Program.

The provisions of KRS 164.785(1)(b) notwithstanding, eligible students attending nonprofit and for-profit institutions that otherwise meet the eligibility criteria of KRS 164.785 shall receive Kentucky Tuition Grant Program funds to the extent that funding is available.

Included in the above Restricted Funds appropriation is $14,546,800 in fiscal year 2000-2001 and $14,645,200 in fiscal year 2001-2002 for the Kentucky Tuition Grant program.

Included in the above General Fund appropriation is $1,620,000 in fiscal year 2000-2001 and $1,579,500 in fiscal year 2001-2002 for the Osteopathic Medicine Scholarship. Notwithstanding KRS 164.7891, scholarships will be computed in both years based on the average public school tuition cost.

Included in the above Restricted Funds appropriation is $696,000 in fiscal year 2000-2001 and $721,200 in fiscal year 2001-2002 for administrative costs associated with the Kentucky Educational Excellence Scholarship.

The Kentucky Educational Excellence Scholarship (KEES) program is appropriated $16,193,500 in fiscal year 2000-2001 and $24,556,900 in fiscal year 2001-2002 from Restricted Funds. In the 2000-2002 biennium, funds from the Merit Scholarship Trust Fund shall also be used for other programs. The Secretary of Finance shall assure, however, that the KEES program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 Regular Session of the General Assembly as a highest priority use of the funds. In the event that the actual dollars realized are insufficient to fund all of the programs funded through the Merit Scholarship Fund, the Secretary shall determine how the funds shall be allocated among the remaining programs after the KEES obligation has been met with the second highest priority accorded to full funding of the Contract Spaces Program in the Council on Postsecondary Education.

Included in the above Restricted Funds appropriation is $1,736,000 in fiscal year 2000-2001 and $1,972,900 in fiscal year 2001-2002 for the National Guard Tuition program. These funds are derived from the Merit Scholarship program.

Included in the above General Fund appropriation is $2,000,000 in fiscal year 2000-2001 and $2,109,500 in fiscal year 2001-2002 for the Early Childhood Scholarship Program. These General Fund appropriations are derived from the Phase I Tobacco Settlement.

Included in the above Restricted Funds appropriation is $33,905,400 in fiscal year 2000-2001 and $34,130,000 in fiscal year 2001-2002 for the College Access Program.

Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally funded student financial assistance programs.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

Included in the above General Fund appropriation is $906,000 in fiscal year 2001-2002 for debt service for the previously authorized new Kentucky Higher Education Assistance Authority building.

58. EASTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	67,006,100	71,216,500
Restricted Funds	87,345,700	91,149,300
Federal Funds	32,194,100	33,349,800
Total	186,545,900	195,715,600

Included in the above General Fund appropriation is $3,427,800 in fiscal year 2000-2001 and $4,325,200 in fiscal year 2001-2002 for debt service for previously issued bonds.

59. KENTUCKY STATE UNIVERSITY

	2000-01	2001-02
General Fund	21,807,400	22,404,000
Restricted Funds	17,181,800	18,332,300
Federal Funds	12,527,900	12,828,700
Total	51,517,100	53,565,000

Included in the above General Fund appropriation is $2,236,500 in fiscal year 2000-2001 and $2,244,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

60. MOREHEAD STATE UNIVERSITY

	2000-01	2001-02
General Fund	39,697,000	39,912,900
Restricted Funds	39,385,000	41,158,700
Federal Funds	33,664,200	35,973,100
Total	112,746,200	117,044,700

Included in the above General Fund appropriation is $2,138,500 in fiscal year 2000-2001 and $884,200 in fiscal year 2001-2002 for debt service for previously issued bonds.

61. MURRAY STATE UNIVERSITY

	2000-01	2001-02
General Fund	47,275,100	49,696,700
Restricted Funds	52,018,600	53,972,400
Federal Funds	7,782,100	8,137,700
Total	107,075,800	111,806,800

Included in the above General Fund appropriation is $1,163,400 in fiscal year 2000-2001 and $1,886,300 in fiscal year 2001-2002 for debt service for previously issued bonds.

62. NORTHERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	39,730,100	44,114,100
Restricted Funds	57,123,800	60,333,300
Federal Funds	6,457,300	6,457,300
Total	103,311,200	110,904,700

Included in the above General Fund appropriation is $5,033,500 in fiscal year 2000-2001 and $5,043,000 in fiscal year 2001-2002 for debt service for previously issued bonds.

63. UNIVERSITY OF KENTUCKY

	2000-01	2001-02
General Fund	306,727,800	317,275,200
Restricted Funds	764,923,800	786,522,500
Federal Funds	90,943,600	92,677,100
Total	1,162,595,200	1,196,474,800

Included in the above General Fund appropriation is $11,242,200 in fiscal year 2000-2001 and $11,285,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $7,812,700 in fiscal year 2000-2001 and $8,488,000 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Restricted Funds appropriation is $12,458,700 in fiscal year 2000-2001 and $12,944,800 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $4,281,800 in fiscal year 2000-2001 and $4,297,300 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

64. UNIVERSITY OF LOUISVILLE

	2000-01	2001-02
General Fund	171,733,200	177,179,300
Restricted Funds	265,936,700	270,892,800
Federal Funds	28,166,200	28,842,100
Total	465,836,100	476,914,200

Included in the above General Fund appropriation is $11,316,600 in fiscal year 2000-2001 and $11,331,500 in fiscal year 2001-2002 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $16,540,200 in fiscal year 2000-2001 and $17,052,900 in fiscal year 2001-2002 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2001-2002.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

65. WESTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	63,957,000	66,563,300
Restricted Funds	74,472,800	81,219,000

Federal Funds	26,191,200	31,992,000
Total	164,621,000	179,774,300

Included in the above General Fund appropriation is $3,944,100 in fiscal year 2000-2001 and $2,592,600 in fiscal year 2001-2002 for debt service for previously issued bonds.

66. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2000-01	2001-02
General Fund	169,640,800	182,226,400
Restricted Funds	103,788,300	109,093,600
Federal Funds	67,872,800	69,501,700
Total	341,301,900	360,821,700

Included in the above General Fund appropriation is $10,678,100 in fiscal year 2000-2001 and $10,712,900 in fiscal year 2001-2002 for debt service for previously issued bonds.

TOTAL - POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	1,041,653,300	1,159,715,800
Restricted Funds	1,502,527,700	1,564,561,900
Federal Funds	307,224,400	321,184,500
TOTAL	2,851,405,400	3,045,462,200

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

67. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2000-01	2001-02
General Fund	692,500	622,700
Restricted Funds	2,111,800	2,097,100
Federal Funds	400,000	425,900
Total	3,204,300	3,145,700

68. ALCOHOLIC BEVERAGE CONTROL

	1999-00	2000-01	2001-02
General Fund		1,480,400	1,459,100
Restricted Funds	57,200	4,542,900	4,609,400
Federal Funds		532,900	558,400
Total	57,200	6,556,200	6,626,900

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

69. FINANCIAL INSTITUTIONS

	2000-01	2001-02
Restricted Funds	8,841,600	9,075,400

Included in the above appropriation is a transfer of $900,000 in each fiscal year to the General Fund, notwithstanding KRS 287.485.

70. KENTUCKY RACING COMMISSION

	2000-01	2001-02
General Fund	389,500	422,800
Restricted Funds	14,504,100	14,147,200
Total	14,893,600	14,570,000

71. HOUSING, BUILDINGS AND CONSTRUCTION

	2000-01	2001-02
General Fund	3,631,100	3,717,600
Restricted Funds	31,719,500	32,096,500

Total	35,350,600	35,814,100

Under the provisions of the Firefighters Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters Foundation Program Fund, to be paid to each firefighter in addition to his or her regular salary as prescribed by KRS 95A.250. The supplemental payments per qualified professional firefighter shall increase to $3,100 in fiscal year 2000-2001, which is continued in fiscal year 2001-2002. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended. Notwithstanding KRS 42.190 and 95A.220(2), all funds remaining at the end of fiscal year 1999-2000 and fiscal year 2000-2001 in accounts established pursuant to KRS 95A.220(1) and 95A.262 shall not lapse.

72. INSURANCE

a. General Operations

	2000-01	2001-02
General Fund	17,692,500	21,280,000
Restricted Funds	16,543,200	17,760,300
Total	34,235,700	39,040,300

b. Health Purchasing Alliance

	2000-01	2001-02
Restricted Funds	377,500	377,400
TOTAL - INSURANCE	34,613,200	39,417,700

73. MINES AND MINERALS

	2000-01	2001-02
General Fund	9,847,400	9,921,400
Restricted Funds	1,741,500	1,919,000
Federal Funds	589,500	589,200
Total	12,178,400	12,429,600

Notwithstanding KRS 353.590, the following fee shall be charged: oil gas permit transfer - $25.

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds equaling a fifteen percent (15%) share of the Labor Cabinet's Office of Safety and Health Education Training will be transferred in both fiscal years from the Special Fund to Mines and Minerals.

74. PUBLIC ADVOCACY

	1999-00	2000-01	2001-02
General Fund	745,500	22,380,000	24,821,100
Restricted Funds		2,984,100	2,972,600
Federal Funds		908,400	953,800
Total	745,500	26,272,500	28,747,500

There is appropriated from the General Fund in fiscal year 2000-2001 and fiscal year 2001-2002 the necessary funds, subject to the conditions and procedures provided in this Act, which are required to provide additional staff to handle workload generated from new judgeships or a new court upon the passage of enabling legislation. The funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

75. PUBLIC SERVICE COMMISSION

	2000-01	2001-02
General Fund	10,636,700	11,009,700
Restricted Funds	24,000	24,000
Federal Funds	215,500	225,500
Total	10,876,200	11,259,200

Included in the above General Fund appropriation is $589,000 in each fiscal year for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

76. SECRETARY

a. General Operations

	2000-01	2001-02
Restricted Funds	2,020,000	2,087,700

b. Petroleum Storage Tank Environmental Assurance Fund

	2000-01	2001-02
Restricted Funds	42,719,000	44,114,800
TOTAL - SECRETARY	44,739,000	46,202,500

77. BOARD OF TAX APPEALS

	2000-01	2001-02
General Fund	467,800	474,300

78. CHARITABLE GAMING

	2000-01	2001-02
Restricted Funds	3,229,700	3,307,900

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1999-00	2000-01	2001-02
General Fund	745,500	67,217,900	73,728,700
Restricted Funds	57,200	131,358,900	134,589,300
Federal Funds		2,646,300	2,752,800
TOTAL	802,700	201,223,100	211,070,800

N. REVENUE

Budget Units

79. REVENUE CABINET

	2000-01	2001-02
General Fund	64,143,700	67,742,400
Restricted Funds	3,800,000	3,581,500
Road Fund	1,385,000	1,418,000
Total	69,328,700	72,741,900

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2000-2002 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2000-2001 and fiscal year 2001-2002. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2000-2001 and 2001-2002 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. Also included in the Revenue Cabinet's Restricted Funds appropriation is $90,000 in fiscal year 2000-2001 and $290,000 in fiscal year 2001-2002 from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

80. PROPERTY VALUATION ADMINISTRATORS

	2000-01	2001-02
General Fund	25,146,200	26,254,400
Restricted Funds	3,240,500	3,271,900
Total	28,386,700	29,526,300

TOTAL - REVENUE CABINET

	2000-01	2001-02
General Fund	89,289,900	93,996,800
Restricted Funds	7,040,500	6,853,400
Road Fund	1,385,000	1,418,000
TOTAL	97,715,400	102,268,200

O. TOURISM DEVELOPMENT CABINET

Budget Units

81. OFFICE OF THE SECRETARY

	1999-00	2000-01	2001-02
General Fund		1,342,100	1,678,700
Restricted Funds	3,800		100,000
Total	3,800	1,342,100	1,778,700

Included in the General Fund appropriation is $270,000 in each fiscal year for Outdoor Drama Grants.

82. BREAKS INTERSTATE PARK

	2000-01	2001-02
General Fund	250,000	250,000

An appropriation up to $250,000 in each fiscal year is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any portion not matched by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year.

83. TRAVEL DEVELOPMENT

	1999-00	2000-01	2001-02
General Fund		7,282,900	7,483,900
Restricted Funds	20,600	4,000	4,000
Federal Funds	34,100		
Total	54,700	7,286,900	7,487,900

Included in the General Fund appropriation is $2,719,000 in fiscal year 2000-2001 and $2,784,000 in fiscal year 2001-2002 for the Comprehensive Advertising Contract and $800,000 in each fiscal year for the Local and Regional Matching Funds Program.

84. PARKS

	1999-00	2000-01	2001-02
General Fund		28,336,600	30,327,600
Restricted Funds	1,397,500	48,062,500	49,491,900
Total	1,397,500	76,399,100	79,819,500

Included in the above General Fund appropriation is $56,000 in fiscal year 2001-2002 for debt service.

85. KENTUCKY HORSE PARK

	2000-01	2001-02
General Fund	1,446,300	1,730,500
Restricted Funds	4,917,000	4,960,100
Total	6,363,300	6,690,600

86. KENTUCKY STATE FAIR BOARD

	2000-01	2001-02
General Fund	407,000	407,000
Restricted Funds	27,952,200	28,972,500
Total	28,359,200	29,379,500

Included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 55.

Included in the General Fund appropriation is $407,000 in each year of the biennium for the North American International Livestock Exposition.

87. FISH AND WILDLIFE RESOURCES

	2000-01	2001-02
Restricted Funds	25,250,500	26,015,600
Federal Funds	7,000,000	7,000,000
Total	32,250,500	33,015,600

TOTAL-TOURISM DEVELOPMENT CABINET

	1999-00	2000-01	2001-02

General Fund		39,064,900	41,877,700
Restricted Funds	1,421,900	106,186,200	109,544,100
Federal Funds	34,100	7,000,000	7,000,000
TOTAL	1,456,000	152,251,100	158,421,800

P. TRANSPORTATION CABINET

88. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2000-01	2001-02
Restricted Funds	11,631,200	11,632,200
Federal Funds	209,000	209,000
Total	11,840,200	11,841,200

Notwithstanding KRS 183.525(5), the Restricted Fund appropriation above includes operational costs of the program.

b. Revenue Sharing

	2000-01	2001-02
Road Fund	217,866,000	222,637,800

1. Included in the above Road Fund appropriation is $82,403,500 in fiscal year 2000-2001 and $84,215,200 in fiscal year 2001-2002 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2000-2001 and $38,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $99,965,000 in fiscal year 2000-2001 and $102,162,800 in fiscal year 2001-2002 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2000-2001 and $46,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $34,672,500 in fiscal year 2000-2001 and $35,434,800 in fiscal year 2001-2002 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2000-2001 and $16,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	2000-01	2001-02
General Fund	75,300	78,100

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	2000-01	2001-02
General Fund	5,047,500	5,199,100
Restricted Funds	829,600	858,300
Federal Funds	7,740,000	8,044,000
Total	13,617,100	14,101,400

Included in the above General Fund appropriation is $2,750,000 in fiscal year 2000-2001 and $3,000,000 in fiscal year 2001-2002 for nonpublic school transportation.

e. Highways

	2000-01	2001-02
Restricted Funds	61,224,000	62,494,400
Federal Funds	486,500,000	495,300,000
Road Fund	691,578,000	793,112,100
Total	1,239,302,000	1,350,906,500

1. Included in the above Road Fund appropriation is $345,531,300 in fiscal year 2000-2001 and $437,586,800 in fiscal

year 2001-2002 for the State Funded Construction Program.

Included in the State Funded Construction Program is $64,500,00 in fiscal year 2000-2001 and $66,000,000 in fiscal year 2001-2002 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $244,531,300 in fiscal year 2000-2001 and $334,086,800 in fiscal year 2001-2002 from the Road Fund for state construction projects in the 2000-2002 Biennial Highway Construction Program.

2. Projects in the enacted 1998-2000 Biennial Highway Construction Plan are so listed in order to continue their current authorization into the 2000-2002 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $36,000,000 in fiscal year 2000-2001 and $37,000,000 in fiscal year 2001-2002 for the Highway Construction Contingency Account.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2000-2001 and $290,000 in fiscal year 2001-2002 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

f. Vehicle Regulation

	2000-01	2001-02
Restricted Funds	2,925,000	2,977,400
Federal Funds	2,225,000	2,225,000
Road Fund	29,926,300	31,649,300
Total	35,076,300	36,851,700

g. Debt Service

	2000-01	2001-02
Road Fund	167,275,700	169,854,300

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2000-2001 and $620,600 in fiscal year 2001-2002 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $36,066,600 in fiscal year 2000-2001 and $12,350,400 in fiscal year 2001-2002 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $130,588,500 in fiscal year 2000-2001 and $156,883,300 in fiscal year 2001-2002 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2000-2002 biennium.

h. General Administration and Support

	2000-01	2001-02
Restricted Funds	23,953,400	22,819,200
Road Fund	66,916,800	71,583,100
Total	90,870,200	94,402,300

Included in the above Road Fund appropriation is $6,852,000 in fiscal year 2000-2001 and $9,691,000 in fiscal year 2001-2002 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2001, shall not lapse and shall carry forward to fiscal year 2001-2002 and remain available throughout the 2000-2002 biennium.

TOTAL - TRANSPORTATION CABINET

	2000-01	2001-02
General Fund	5,122,800	5,277,200
Restricted Funds	100,563,200	100,781,500
Federal Funds	496,674,000	505,778,000
Road Fund	1,173,562,800	1,288,836,600
TOTAL	1,775,922,800	1,900,673,300

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

89. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1999-00	2000-01	2001-02
General Fund		2,674,900	2,659,900
Restricted Funds	400,000	6,102,300	6,327,700
Federal Funds		614,000	288,200
Total	400,000	9,391,200	9,275,800

Included in the above General Fund appropriation is $700,000 in each fiscal year for operation of the School-to-Careers system. The Cabinet will have sole responsibility for the initiative, notwithstanding any provisions of KRS 151B.250, KRS 151B.255, KRS 158.760 and KRS 158.7603 to the contrary.

90. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	31,200	32,000

91. TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	21,536,900	22,974,900
Restricted Funds	17,647,700	18,346,300
Federal Funds	10,338,400	10,369,200
Total	49,523,000	51,690,400

Included in the above General Fund appropriation is $1,807,500 in each fiscal year for equipment procurement.

92. ADULT EDUCATION AND LITERACY

	2000-01	2001-02
General Fund	11,024,300	11,388,300
Restricted Funds	83,300	74,300
Federal Funds	11,096,900	10,520,400
Total	22,204,500	21,983,000

93. VOCATIONAL REHABILITATION

	1999-00	2000-01	2001-02
General Fund		10,451,100	10,860,100
Restricted Funds	500,000	2,847,200	3,116,900
Federal Funds		38,341,700	39,242,200
Total	500,000	51,640,000	53,219,200

94. DEPARTMENT FOR THE BLIND

	2000-01	2001-02
General Fund	2,078,100	1,748,100
Restricted Funds	1,475,700	1,436,200
Federal Funds	7,231,900	7,502,400
Total	10,785,700	10,686,700

95. STATE BOARD FOR PROPRIETARY EDUCATION

	2000-01	2001-02
Restricted Funds	116,100	119,400

96. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2000-01	2001-02
General Fund	4,639,200	4,750,600

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

97. TRAINING AND REEMPLOYMENT

	1999-00	2000-01	2001-02
Restricted Funds	50,000	67,500	51,500
Federal Funds		62,768,200	58,762,000
Total	50,000	62,835,700	58,813,500

98. EMPLOYMENT SERVICES

	2000-01	2001-02
General Fund	613,500	628,200
Restricted Funds	14,544,700	11,832,000
Federal Funds	304,227,200	304,472,900
Total	319,385,400	316,933,100

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

Included in the above Restricted Funds appropriation is $4,067,600 in fiscal year 2000-2001 and $4,053,500 in fiscal year 2001-2002 which shall be transferred from the Cabinet for Families and Children to provide job placement and training services to Temporary Assistance for Needy Families (TANF) recipients through a contractual agreement.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, the sum of $1,000,000 during the 2000-2002 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1999-00	2000-01	2001-02
General Fund		53,049,200	55,042,100
Restricted Funds	950,000	42,884,500	41,304,300
Federal Funds		434,618,300	431,157,300
TOTAL	950,000	530,552,000	527,503,700

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2000-2002 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2000-01	2001-02
1. Treasury Department		
a. Laser Check Printers - Lease		
Capital Construction Surplus	248,000	248,000
2. Attorney General		
a. Capital Complex East Franklin County - Lease		
3. Unified Prosecutorial System		
a. Jefferson County - Lease		

4. Governor's Office for Technology

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

	a.	Statewide Microwave Network Maintenance		
		Bond Funds	2,500,000	
	b.	Unified Criminal Justice System		
		Bond Funds	4,585,000	
	c.	Maintaining the Kentucky Spatial Data Infrastructure		
		General Fund	700,000	
		Federal Funds	649,600	
		Other Funds	100,000	
		Total	1,449,600	
	d.	Kentucky Information Highway Upgrade/Expansion		
		Restricted Funds	3,500,000	
	e.	Enterprise Server Complex Upgrade		
		Restricted Funds	2,985,000	
	f.	Disk Storage Upgrade		
		Restricted Funds	887,000	
	g.	Enterprise Server Complex Upgrade		
		Restricted Funds	1,755,000	
	h.	Tape Storage Upgrade		
		Restricted Funds	645,000	
	i.	Disk Storage Upgrade		
		Restricted Funds	887,000	
	j.	Enterprise High-Speed Printer Replacement		
		Restricted Funds	645,000	
	k.	Tape Storage Upgrade		
		Restricted Funds	645,000	
	l.	Franklin County - Lease (100 Fair Oaks)		
5.		Department of Agriculture		
		Large Truck Scale Unit		
		Restricted Funds	210,000	
6.		Department of Military Affairs		
	a.	Environmental Pool		
		General Fund	174,000	
		Federal Funds	635,000	
		Total	809,000	
	b.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	200,000	700,000
	c.	Maintenance Pool		
		Investment Income	950,000	1,000,000
	d.	Aircraft Maintenance Pool		
		Investment Income	400,000	400,000
	e.	Runway/Parallel Taxiway Pavement/Apron Rehabilitation		
		Federal Funds	1,265,000	
		Capital Construction Surplus	141,000	
		Total	1,406,000	

7. Governor's Office of Veterans' Affairs		
a. Eastern Kentucky Veterans' Center - Additional		
General Fund	328,000	
Federal Funds	1,056,000	
Total	1,384,000	
b. Western Kentucky Veterans' Center - Additional		
General Fund	229,000	
Federal Funds	502,000	
Total	731,000	
c. Western Kentucky Veterans' Cemetery		
Federal Funds	2,725,000	
Capital Construction Surplus	100,000	
Total	2,825,000	
8. Kentucky Retirement Systems		
a. Franklin County - Lease (Perimeter Park West Number One)		
b. Franklin County - Lease (Perimeter Park West Number Two)		

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2000-01	2001-02
1. Economic Development Projects		
a. Economic Development Bond Pool		
Reauthorization ($32,203,000 - Bond Funds)		
Bond Funds - Additional	4,000,000	
b. High Tech Economy Project Pool		
Restricted Funds	20,000,000	

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

C. EDUCATION

Budget Unit	2000-01	2001-02
1. Department of Education		
a. Kentucky School for the Deaf Fire Safety/Dorm Renovation		
Bond Funds	1,250,000	
b. Kentucky School for the Deaf Steam Line Replacement		
Emergency Repair, Maintenance and Replacement Funds	1,700,000	
c. Maintenance Pool		
Investment Income	292,000	785,000
d. Kentucky School for the Blind Roofing and Weatherproofing		
Bond Funds	1,122,000	
e. Kentucky School for the Deaf Roof Replacements		
Bond Funds	850,000	
f. Educational Professional Standards Board System Infrastructure/ Database System		
General Fund	2,900,000	
g. Educational Professional Standards Board System Infrastructure		
General Fund	2,000,000	
h. Jackson County Area Vocational School		
Reauthorization		

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2000-01	2001-02

1. Libraries and Archives		
a. Document Management Digitization System		
Bond Funds	1,188,000	
b. Feasibility Study - New Archives Building		
General Fund	200,000	
2. Kentucky Educational Television		
a. DTV-HDTV Broadcast Transmission		
Bond Funds	12,700,000	
b. NTSC Transmitters		
Bond Funds	2,800,000	
3. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	150,000	150,000
4. Teachers' Retirement System		
a. Imaging System		
Reauthorization ($700,000 - Restricted Funds)		
5. School Facilities Construction Commission		
Bond Funds		92,000,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2000-01	2001-02
1. Administration Services		
a. Maintenance Pool		
Investment Income	300,000	525,000
b. L & N Building - Elevator Upgrade		
Deferred Maintenance	1,000,000	
c. Owensboro Office Building - HVAC and Interior Renovation		
Deferred Maintenance	1,500,000	
d. Children's Advocacy Centers		
General Fund	640,000	
e. Disability Determinations Client System Upgrade		
Federal Funds	300,000	
f. Various Leases - Eleven Counties		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2000-01	2001-02
1. General Administration		
a. Kentucky Infrastructure Authority - Wastewater Revolving Loan and Grant Fund-A (Wastewater Fund-A1; Water Supply Fund-A2)		
Reauthorization ($8,542,000 - Bond Funds)		
Bond Funds - Additional	7,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA - Water Resources Development

Bond Funds 50,000,000

The Kentucky Infrastructure Authority may use funds available in the Infrastructure Revolving Fund to develop a program for construction of water projects. The Kentucky Infrastructure Authority shall establish project prioritization criteria. All water projects to be funded in accordance with the above shall only be expended pursuant to the policies and procedures of the Kentucky Infrastructure Authority.

c. Kentucky Infrastructure Authority - Fund F Loans - Drinking Water
Reauthorization ($5,000,000 - Bond Funds)
Bond Funds 6,000,000

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

d. Red Fox Golf Course
Reauthorization ($4,400,000 - Multiple Funds)

e. Pike County Civic Center
Reauthorization ($10,000,000 - Multiple Funds)

f. New Office Building - Alternative Construction

2. Department for Administration

For the major equipment purchases displayed in this section as Restricted Funds supported projects, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Two High Speed Inserters
Restricted Funds 600,000

b. Bar Code Printing and Sorting Equipment
Reauthorization ($390,700 - Restricted Funds)

c. Network Publishing Equipment
Restricted Funds 581,000

d. Franklin County - Lease (Postal Services)

e. Franklin County - Lease (300 Myrtle Avenue)

3. Department for Facilities Management

a. Kentucky State Capitol -
Historic Restoration Design
Bond Funds 8,550,000

b. New Executive Office Building
Bond Funds 20,500,000

c. Capitol Complex Infrastructure
Bond Funds 33,700,000

d. Kentucky History Center Area Restoration
Bond Funds 4,000,000

e. Sprinkler Recall/Replacement
Bond Funds 1,500,000

f. Statewide Property Acquisition/Demolition Fund
Bond Funds 5,000,000

g. Elevator/Escalator Modernization - State Buildings
Deferred Maintenance 2,000,000

h. Federally Mandated CFC Phaseout
Deferred Maintenance 1,000,000

i. ADA Compliance
Deferred Maintenance 1,000,000

j. Maintenance Pool - Statewide Deferred
Investment Income 1,000,000

k.	Capital Construction and Equipment Purchase Contingency Fund		
	Investment Income	7,500,000	
l.	Emergency Repair, Maintenance, and Replacement Fund		
	Investment Income	3,714,000	1,500,000
m.	Maintenance Pool		
	Investment Income	3,375,000	3,875,000
	Restricted Funds	1,400,000	300,000
	Total	4,775,000	4,175,000
4.	Lottery Corporation		
a.	Contingency on Property		
	Other Funds	2,500,000	
b.	Potential Buyout of On-Line Gaming System		
	Other Funds	18,450,000	
c.	Probability Games Implementation		
	Other Funds	5,643,000	
d.	Instant Ticket Machines		
	Other Funds	2,125,000	
e.	Pull Tab Ticket Vending Machines		
	Other Funds	4,473,000	
f.	Data Processing, Telecommunications and Related Equipment		
	Other Funds	3,750,000	
g.	Upgrade to Distributed Processing Model		
	Other Funds	150,000	

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit		2000-01	2001-02
1.	Department for Mental Health/Mental Retardation Services		
a.	New Power Plant - Western State Hospital		
	Bond Funds	3,880,000	
b.	Boiler Replacement - Central State Hospital		
	Bond Funds	2,457,000	
c.	Miscellaneous Roof Replacement/Repair Pool		
	General Fund	500,000	
d.	Maintenance Pool		
	Investment Income	700,000	1,840,000
e.	Water Piping Replacement System - Eastern State Hospital		
	Emergency Repair, Maintenance and Replacement Fund	850,000	
f.	Statewide Chiller Replacement		
	Emergency Repair, Maintenance and Replacement Fund	839,000	
g.	Franklin County - Lease (Fair Oaks Building)		
2.	Administrative Support		
a.	Statewide Public Health System		
	Bond Funds	2,000,000	

b. Children's Health Information System		
Capital Construction Surplus	1,200,000	

H. JUSTICE CABINET

Budget Unit	2000-01	2001-02
1. Department of State Police		
a. Maintenance Pool		
Investment Income	200,000	250,000
b. Unified Criminal Justice Information		
Bond Funds	1,402,000	
c. New Ion Coupled Plasma/Mass Spec. Trace Unit		
Capital Construction Surplus	330,000	
2. Department of Juvenile Justice		
a. Maintenance Pool		
Investment Income	400,000	500,000
b. Secure Juvenile Detention Center - Fayette County		
Bond Funds	6,700,000	
c. Combined Residential/Detention Facility - Hardin County		
Bond Funds	11,211,000	
d. Woodsbend Youth Development Center Education Addition - Morgan County		
Bond Funds	1,101,000	
e. 100-Bed Replacement Facility - Jefferson County		
Bond Funds	10,000,000	
3. Department of Criminal Justice Training		
a. Law Enforcement Basic Training Complex		
Additional Funding		
Agency Bond Funds	7,000,000	
4. Department of Corrections		
a. Maintenance Pool		
Investment Income	1,400,000	2,000,000
b. Kentucky State Reformatory - Exterior Stabilization of Administration Building		
Emergency Repair, Maintenance and Replacement Fund	1,600,000	
c. Blackburn Correction Complex - Roof Replacement		
Bond Funds	1,400,000	
d. New Medium Security Prison - Elliott County		
Bond Funds	90,408,000	
e. New Medium Security Prison - Design and Site Acquisition - Knott County		
Bond Funds	17,200,000	
f. Kentucky State Reformatory - New Gas Fired Boiler Plant		
Bond Funds	7,000,000	
g. Kentucky Correctional Institution for Women - Phase II Expansion - Design only		
Bond Funds	900,000	
h. Western Kentucky Correctional Complex - 44-Bed Segregation Unit		
Bond Funds	4,300,000	
i. Corr/Optical Imaging		
Restricted Funds	560,000	536,000

j. Kentucky State Reformatory - Two Transportation Buses		
Restricted Funds	620,000	
k. Correctional Industries Warehouse/Office Complex		
Reauthorization		
l. Jefferson County - Lease (Probation and Parole)		

I. LABOR CABINET

Budget Unit	2000-01	2001-02
1. General Administration and Support		
a. Franklin County - Lease (127 Building South)		
2. Workers' Claims		
a. Franklin County - Lease (1270 Louisville Road)		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2000-01	2001-02
1. General Administration and Support		
a. Kentucky Heritage Land Conservation Fund -		
Reauthorization		
Restricted Funds - Additional	5,160,000	5,160,000
b. Maintenance Pool		
Investment Income	100,000	115,000
2. Department for Environmental Protection		
a. State-Owned Dam Repair -		
Reauthorization		
Bond Funds - Additional	2,000,000	
b. State-Funded Leaking Underground Storage Tanks -		
Reauthorization		
Restricted Funds - Additional	500,000	500,000
c. Hazardous Waste Management Fund -		
Reauthorization		
Restricted Funds - Additional	2,100,000	2,100,000
d. Franklin County - Lease (Ash Properties)		
e. Franklin County - Lease (Air Quality)		
f. Maxey Flats Replacement Structures		
Emergency, Repair, Maintenance		
and Replacement Fund	390,000	
3. Department for Natural Resources		
a. Black Mountain Preservation Project		
Bond Funds	4,100,000	
b. Forestry Radio Equipment		
Bond Funds	1,504,000	
4. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease (Hudson Hollow)		
5. Kentucky River Authority		
a. Locks and Dams - Acquisition		
Reauthorization		
b. Kentucky River Parks		
Reauthorization		
c. Kentucky River Water Release System -		
Reauthorization ($4,000,000 - Agency Bonds)		

6. Kentucky Nature Preserves Commission		
a. Nature Preserves Acquisition Fund - Reauthorization		
Other Funds - Additional	300,000	300,000
Total	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2000-01	2001-02
1. Personnel		
a. Franklin County - Lease		
b. On-line Access to Employee Records		
General Fund	550,000	
c. New Personnel Payroll System		
General Fund	1,450,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2000-01	2001-02
1. Council on Postsecondary Education		
a. Capital Renewal & Maintenance Pool		
Bond Funds	30,000,000	
b. Agency Bond Pool		
Agency Bonds	35,000,000	
c. Equipment Replacement Pool		
Bond Funds	20,000,000	
2. Kentucky Higher Education Assistance Authority		
a. Kentucky Higher Education Assistance Authority Office Building Reauthorization		
b. Information Technology Systems Upgrade		
Restricted Funds	650,000	
c. Imaging System Upgrade		
Restricted Funds		125,000
d. Franklin County - Lease		
3. Eastern Kentucky University		
a. Cammack Building		
Bond Funds	5,000,000	
b. Minor Projects Maintenance		
Restricted Funds	6,000,000	
c. E & G Life Safety Bugle Elevator		
Restricted Funds	750,000	
d. Student Housing Fire Safety		
Restricted Funds	2,000,000	
e. Property Acquisition		
Restricted Funds	3,000,000	
f. Dormitory Renovation, Combs Hall		
Restricted Funds	5,000,000	
g. Greek Row		
Restricted Funds	4,000,000	
h. Watts Property (Elmwood) Renovation		

		Restricted Funds	2,000,000	
	i.	Health Education Center - Phase I		
		Bond Funds	7,000,000	
	j.	Fourier Transformer Nuclear Magnetic Resonance Spectrometer		
		Restricted Funds	135,000	
	k.	Electronic Security System for Law Library		
		Restricted Funds	110,000	
	l.	Minor Projects Equipment		
		Restricted Funds	2,500,000	2,500,000
4.		Kentucky State University		
	a.	Hathaway Hall Renovation		
		Bond Funds	3,796,000	
	b.	Pedestrian Mall		
		Restricted Funds	771,000	
	c.	Young Hall		
		Restricted Funds	3,672,000	
	d.	Chillier Additions		
		Restricted Funds		2,254,200
	e.	Guaranteed Energy Savings Project		
		Restricted Funds		2,500,000
	f.	Capital Renewal Projects		
		Restricted Funds		1,000,000
	g.	Cooperative Extension Expansion Projects		
		Federal Funds	995,000	497,500
	h.	Roof Repair and Replacement Project		
		Restricted Funds		600,000
	i.	Carver Hall Renovation		
		Bond Funds	5,000,000	
	j.	Aquaculture Classroom and Lab Facility		
		Federal Funds	650,000	
	k.	University Motor Coaches		
		Restricted Funds	800,000	
5.		Morehead State University		
	a.	Americans with Disabilities Act Compliance - E & G		
		Restricted Funds	901,500	891,500
	b.	Americans with Disabilities Act Compliance - Aux.		
		Restricted Funds	785,000	775,000
	c.	1990 Clean Air Act Amendment Compliance		
		Restricted Funds	1,100,000	
	d.	Life Safety: Claypool-Young Art Building		
		Restricted Funds	420,000	
	e.	Capital Renewal - E & G Facilities		
		Restricted Funds	2,150,100	2,149,900
	f.	Life Safety: Auxiliary Facilities		
		Restricted Funds	2,030,000	
	g.	Land Acquisitions Related to Campus Master Plan		
		Restricted Funds	1,337,000	
	h.	Student Center Renovation & Addition - Phase 1		

	Bond Funds	10,000,000	
i.	Artificial Turf Replacement		
	Restricted Funds	1,000,000	
j.	Central Campus Reconstruction		
	Restricted Funds	650,000	
k.	Construction of Family Housing Complexes		
	Restricted Funds	2,000,000	2,000,000
l.	Capital Renewal - Auxiliary Facilities		
	Restricted Funds	1,150,000	1,150,000
m.	Guaranteed Energy Savings		
	Restricted Funds	2,000,000	
n.	Life Safety: E & G Facilities		
	Restricted Funds	720,000	
o.	Radiological Technology Initiatives		
	Restricted Funds	859,000	
p.	Instructional and Support Equipment		
	Restricted Funds	1,434,100	
q.	Tour Bus		
	Restricted Funds	330,000	
r.	Nuclear Magnetic Resonance Apparatus		
	Restricted Funds	210,000	
s.	Instructional Technology Initiatives		
	Restricted Funds	2,009,600	
t.	HPLC-Mass Spectrometer		
	Restricted Funds	140,000	
u.	Microcomputer/LANs/Peripherals-Instructional		
	Restricted Funds	2,000,000	
v.	Library Automation & Inf. Support Initiatives		
	Restricted Funds	920,000	
w.	Admin. & Office Systems Support Initiatives		
	Restricted Funds	1,300,000	
x.	Networking/Infrastructure Initiatives		
	Restricted Funds	2,180,000	
y.	Telecommunications Systems		
	Restricted Funds	2,000,000	
6.	Murray State University		
a.	Woods Academic/Student Services Building		
	Restricted Funds	2,000,000	
b.	Electrical Distribution Upgrade		
	Restricted Funds	3,330,000	
c.	Replace High Voltage Feeder		
	Restricted Funds	1,141,000	
d.	National Scouting Museum, BAs Phase III		
	Reauthorization		
e.	Replace Clark Hall		
	Restricted Funds	8,000,000	
f.	Replace Central Plant Boiler		
	Restricted Funds	666,000	

g.	Replace Physical Plant Electrical Substation		
	Restricted Funds	796,000	
h.	Replace Campus Telephone Cable		
	Restricted Funds	1,708,000	
i.	Asbestos Abatement: E & G Pool		
	Restricted Funds	272,500	
j.	FCC Compliance: E & G Chillers Replacement		
	Restricted Funds	585,000	
k.	Pogue Electric and HVAC Renovation		
	Restricted Funds	750,000	
l.	Central Plant - Add Chiller		
	Restricted Funds	630,000	
m.	New Science Building		
	Bond Funds	13,000,000	
n.	Land Acquisition Pool		
	Restricted Funds	500,000	
o.	Guaranteed Energy Savings Project		
	Restricted Funds	2,000,000	
p.	Upgrade Highway 121 Electrical Substation		
	Restricted Funds	1,000,000	
q.	Price Doyle HVAC Replacement & Energy Retrofit		
	Restricted Funds	750,000	
r.	Capital Renewal: E & G Pool < $400,000		
	Restricted Funds	2,705,000	
s.	Capital Renewal: H & D Pool < $400,000		
	Restricted Funds	195,000	
t.	Winslow Cafeteria - Replacement Mechanical Equipment		
	Restricted Funds		500,000
u.	Elizabeth College - Renovate HVAC System		
	Restricted Funds	1,200,000	
v.	Heater College - Renovate HVAC System		
	Restricted Funds	800,000	
w.	White College - Renovate HVAC System		
	Restricted Funds	1,000,000	
x.	White College - Replace Domestic Water Piping		
	Restricted Funds	500,000	
y.	Regents College - Replace Domestic Water Piping		
	Restricted Funds	500,000	
z.	Regents College - Renovate HVAC System		
	Restricted Funds	1,000,000	
aa.	Applied Science - Electrical Upgrade		
	Restricted Funds	850,000	
ab.	Wells Hall - Electrical Upgrade		
	Restricted Funds	600,000	
ac.	Sparks Hall - Electrical Upgrade		
	Restricted Funds	952,000	
ad.	Sparks Hall - Renovate HVAC System		
	Restricted Funds	500,000	

	ae.	General Services - Renovate HVAC System		
		Restricted Funds	500,000	
	af.	Special Education Bldg. - Renovate HVAC System		
		Restricted Funds	500,000	
	ag.	Deferred Maintenance: E & G Pool		
		Restricted Funds	864,000	
	ah.	Deferred Maintenance: H & D Pool		
		Restricted Funds	930,000	
	ai.	Life Safety: E & G Pool		
		Restricted Funds	852,000	
	aj.	Life Safety: H & D Pool		
		Restricted Funds	40,000	
	ak.	ADA Compliance: Arch Barrier E & G Pool		
		Restricted Funds	2,092,000	
	al.	ADA Compliance: Elev. Ctrls./Modify E & G		
		Restricted Funds	1,013,000	
	am.	ADA Compliance: Arch Barriers H & D Pool		
		Restricted Funds	175,000	300,000
	an.	Asbestos Abatement: H & D Pool		
		Restricted Funds	321,000	395,000
	ao.	E & G Projects Less Than $400,000		
		Restricted Funds	792,000	
	ap.	Stereo Lithograph		
		Restricted Funds	500,000	
	aq.	Recording/Playback Lab & Special Instrument Repl.		
		Restricted Funds		188,000
	ar.	Replace Home Economics Appliances, etc.		
		Restricted Funds		120,000
	as.	Optics Lab Equipment		
		Federal Funds		85,000
		Restricted Funds		85,000
		Total		170,000
	at.	Dark Room Scanner		
		Restricted Funds		120,000
	au.	Materials Testing Machine		
		Restricted Funds	240,000	
	av.	Campus Network Distribution System		
		Restricted Funds	3,000,000	
	aw.	Centralized Support System		
		Restricted Funds	1,850,000	
	ax.	Network Nine Residence Halls		
		Restricted Funds	1,300,000	
7.	Northern Kentucky University			
	a.	Covington Campus Privatization		
		Other Funds	11,000,000	
	b.	Alumni & Faculty/Staff Center		
		Other Funds	4,000,000	
	c.	Safety Lighting		

	Restricted Funds	910,000
d.	Nunn Hall Mechanical Upgrade	
	Restricted Funds	500,000
e.	Minor Projects Pool (2000-2002)	
	Restricted Funds	2,170,000
f.	Old Science Renovation (Design Phase)	
	Bond Funds	1,000,000
g.	Land Acquisition (2000-2002)	
	Restricted Funds	4,000,000
h.	Classroom/Technology Initiative	
	Restricted Funds	3,000,000
i.	Boiler/Chiller Replacement	
	Restricted Funds	1,500,000
j.	Elevator Upgrade	
	Restricted Funds	600,000
k.	New Power Plant	
	Bond Funds	12,000,000
l.	Master Plan Initiatives Phase I	
	Restricted Funds	1,500,000
m.	Chilled Water System Redesign	
	Restricted Funds	400,000
n.	Refurbish Nunn Hall	
	Restricted Funds	600,000
o.	New Residence Hall	
	Other Funds	15,000,000
p.	Greenhouse	
	Other Funds	500,000
q.	Ultracentrifuge	
	Restricted Funds	100,000
r.	Planetarium Equipment	
	Other Funds	750,000
s.	Coach Bus	
	Restricted Funds	330,000
t.	Gas Chromatograph/Mass Spectrometer	
	Restricted Funds	145,000
u.	NMR Spectrometer	
	Restricted Funds	385,000
v.	New Press	
	Restricted Funds	235,000
w.	Data Storage System	
	Restricted Funds	130,000
x.	Automated Tape System	
	Restricted Funds	155,000
y.	Metropolitan Education & Training Center -Lease	
8.	University of Kentucky	
a.	Chilled Water Additions	
	Restricted Funds	784,000
b.	Storm Sewer Improvements, Funkhouser	

	Restricted Funds	910,000
c.	Chiller Replacement - Cooling #3	
	Restricted Funds	2,500,000
d.	Electrical Substation Upgrade	
	Restricted Funds	3,600,000
e.	Steam and Condensate Pipe Repair Phase I	
	Restricted Funds	2,352,000
f.	Substation #2 Renovation	
	Restricted Funds	2,520,000
g.	Pollution Controls, Central Heating Plant #2	
	Restricted Funds	1,494,000
h.	Steam and Condensate Pipe Improvements Phase II	
	Restricted Funds	2,494,000
i.	Cooling Plant #1 Expansion	
	Restricted Funds	14,755,000
j.	Central Heating Plant #2 Improvements	
	Restricted Funds	1,247,000
k.	Chilled Water Piping Addition to Pit	
	Restricted Funds	1,174,000
l.	Upgrade Chilled Water Systems at Medical Center	
	Restricted Funds	3,450,000
m.	Steam Line Expansion - Medical Center	
	Restricted Funds	2,867,000
n.	Sanitary Line Project	
	Restricted Funds	2,360,000
o.	Communication Project	
	Restricted Funds	1,735,000
p.	Medical Center Library Information Center	
	Restricted Funds	3,000,000
q.	Nursing Building Elevator Controls Upgrade	
	Restricted Funds	500,000
r.	Outpatient Clinic Expansion	
	Restricted Funds	1,000,000
s.	Energy Conservation Project (Medical Center)	
	Restricted Funds	6,000,000
t.	Academic and Research Renovation II (COM)	
	Restricted Funds	500,000
u.	Retrofitting of Research Facilities	
	Restricted Funds	480,000
v.	Research Space Enhancement	
	Restricted Funds	600,000
w.	Medical Center Security Improvement Measures, PH	
	Restricted Funds	600,000
x.	Communication Infrastructure, Phase I	
	Restricted Funds	800,000
y.	Departmental Upgrading	
	Restricted Funds	750,000
z.	Research Lab Fit-Up (Aging/Allied Health)	

	Restricted Funds	7,000,000
aa.	Biomedical Sciences Research Building	
	Bond Funds	39,000,000
	Restricted Funds	26,000,000
	Total	65,000,000
ab.	Land Acquisition	
	Restricted Funds	4,000,000
ac.	Lancaster Aquatics Center Expansion	
	Restricted Funds	2,750,000
ad.	Student Housing/Fraternity House Replacement	
	Restricted Funds	6,000,000
ae.	Parking #2 Expansion/Renovation/Replacement	
	Restricted Funds	11,000,000
af.	Police/Parking Building	
	Restricted Funds	2,300,000
ag.	Commonwealth Stadium Field Renovation	
	Restricted Funds	1,500,000
ah.	Women's Basketball Office Renovation	
	Restricted Funds	550,000
ai.	Commonwealth Stadium Field Light Replacement	
	Restricted Funds	1,500,000
aj.	KGS Well Sample and Core Repository Building	
	Restricted Funds	2,545,000
ak.	Environmental Institute	
	Restricted Funds	2,500,000
al.	Life Safety Pool	
	Restricted Funds	2,145,000
am.	Handicapped Access Pool	
	Restricted Funds	350,000
an.	Deferred Maintenance Pool	
	Restricted Funds	2,095,000
ao.	Life Safety - Lex Campus Fume Hoods - Phase III	
	Restricted Funds	3,205,000
ap.	Life Safety - Lex Campus - Asbestos Abatement I	
	Restricted Funds	500,000
aq.	Life Safety - Underground Storage Tanks	
	Restricted Funds	927,000
ar.	Capital Renewal Pool	
	Restricted Funds	12,268,000
as.	Renovation of Biological Sciences Research Space	
	Restricted Funds	1,430,000
at.	Keeneland Hall - HVAC	
	Restricted Funds	2,821,000
au.	Jewell Hall - HVAC	
	Restricted Funds	1,040,000
av.	Boyd Hall - HVAC	
	Restricted Funds	1,633,000
aw.	Renovation of Funkhouser - Phase IV	

	Restricted Funds		770,000
ax.	Chemistry Laboratory Renovation		
	Restricted Funds	1,155,000	
ay.	Gatton College Addition for Int'l Business and Management		
	Restricted Funds		1,725,000
az.	Cooperstown - Phase IV		
	Restricted Funds	1,313,000	
ba.	Seaton Center Addition/Renovation		
	Restricted Funds	15,350,000	
bb.	School of Library and Information Science		
	Restricted Funds	750,000	
bc.	Nursing Unit Modification IX		
	Restricted Funds	3,780,000	
bd.	Nursing Unit Modification X		
	Restricted Funds	3,780,000	
be.	Diagnostic Services Upgrade IX		
	Restricted Funds	1,575,000	
bf.	Outpatient Services II		
	Restricted Funds	5,040,000	
bg.	Diagnostic Services Upgrade X		
	Restricted Funds	1,155,000	
bh.	Implementation of Land Use Plan III		
	Restricted Funds	2,625,000	
bi.	Parking Structure III		
	Restricted Funds	7,350,000	
bj.	Building Connectors II		
	Restricted Funds	2,200,000	
bk.	Utility System Upgrade IV		
	Restricted Funds	10,500,000	
bl.	Implementation of Land Use Plan II		
	Restricted Funds	2,500,000	
bm.	Limited Stay Facility		
	Restricted Funds	5,460,000	
bn.	Building/Site Upgrade II		
	Restricted Funds	710,000	
bo.	Hospital Kitchen Renovation I		
	Restricted Funds	1,050,000	
bp.	Hospital Kitchen Renovation II		
	Restricted Funds	546,000	
bq.	Markey Fourth Floor Renovation		
	Restricted Funds	3,990,000	
br.	Imaging Services		
	Restricted Funds	3,675,000	
bs.	Diagnostic Services Upgrade VIII		
	Restricted Funds	1,100,000	
bt.	Intra-Hospital Transportation Systems III		
	Restricted Funds	735,000	
bu.	Parking Structure I		

	Restricted Funds	6,600,000
bv.	Biohazard/Environmental Protection I	
	Restricted Funds	1,575,000
bw.	Materials Handling Storage/Distribution Center	
	Restricted Funds	1,019,000
bx.	Parking Structure II	
	Restricted Funds	6,930,000
by.	Data Systems Expansion I	
	Restricted Funds	595,000
bz.	Biohazard/Environmental Protection II	
	Restricted Funds	1,575,000
ca.	Intra-Hospital Transportation System IV	
	Restricted Funds	735,000
cb.	HVAC Upgrade	
	Restricted Funds	3,500,000
cc.	Data Systems Expansion II	
	Restricted Funds	641,000
cd.	Building/Site Upgrade III	
	Restricted Funds	767,000
ce.	Hospital Parking Expansion	
	Restricted Funds	3,100,000
cf.	Nutrition Services Upgrade	
	Restricted Funds	1,050,000
cg.	Outpatient Care Facility	
	Restricted Funds	3,500,000
ch.	Support Services Upgrade	
	Restricted Funds	2,415,000
ci.	Utility System Upgrade V	
	Restricted Funds	1,680,000
cj.	Patient Care Facility/Women's Cancer Center	
	Restricted Funds	9,200,000
ck.	Energy Performance Contracting	
	Restricted Funds	1,000,000
cl.	Stiff Testing Machine	
	Restricted Funds	140,000
cm.	Hydro Flume	
	Restricted Funds	130,000
cn.	High Resolution Mass Spectrometer	
	Restricted Funds	500,000
co.	High Temperature Optical Microscope	
	Restricted Funds	105,000
cp.	Holographic System with Image Analyzer	
	Restricted Funds	110,000
cq.	High Resolution STEM 400KV	
	Restricted Funds	1,500,000
cr.	Studio Recording Equipment	
	Restricted Funds	113,000
cs.	Tinius Olsen Ductometer	

	Restricted Funds	100,000
ct.	High Pressure Liquid Chromatography	
	Federal Funds	100,000
	Restricted Funds	100,000
	Total	200,000
cu.	High Power CO2 Laser	
	Restricted Funds	250,000
cv.	Freeze-Thaw Apparatus	
	Restricted Funds	100,000
cw.	X-Ray Laue Unit - Single Crystal	
	Restricted Funds	150,000
cx.	Thermal Analyzer and Powder Diffractometer	
	Restricted Funds	310,000
cy.	Sterilizing/Cleaning System	
	Restricted Funds	234,000
cz.	Solids NMR Spectrometer	
	Restricted Funds	900,000
da.	Environmental Test System	
	Restricted Funds	125,000
db.	Upgrade of 400 MHz Nuclear Magnetic Resonance	
	Federal Funds	340,000
	Restricted Funds	160,000
	Total	500,000
dc.	Electron Spin Resonance Instrument	
	Federal Funds	135,000
	Restricted Funds	65,000
	Total	200,000
dd.	Ultra High Vacuum Chamber	
	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
de.	Laser System	
	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
df.	Faraday Balance	
	Federal Funds	140,000
	Restricted Funds	60,000
	Total	200,000
dg.	Area Detector Diffractometer	
	Federal Funds	210,000
	Restricted Funds	100,000
	Total	310,000
dh.	High-Speed Digital Signal Processing Development	
	Federal Funds	150,000
di.	Three-Dimensional Scaling Device	
	Federal Funds	100,000
dj.	Garbage Truck Front Loader - Replacement	

	Restricted Funds	165,000
dk.	MB/GT Phospho-Imager	
	Restricted Funds	128,000
dl.	MB Ultracentrifuges	
	Restricted Funds	354,000
dm.	Mass Spectrograph for Oligonucleotide Analysis	
	Restricted Funds	250,000
dn.	Gas Chromatograph Mass Spectrophotometer System	
	Restricted Funds	101,000
do.	Fluor. Microscope with Imaging System	
	Restricted Funds	125,000
dp.	CAD/CAM System (College of Dentistry)	
	Restricted Funds	184,000
dq.	Tabletop H50 Gas Chromatograph Mass Spectrometer	
	Restricted Funds	101,000
dr.	Liquid Filling/Stoppering Line	
	Restricted Funds	351,000
ds.	Encapsulator	
	Restricted Funds	151,000
dt.	Semi-Solid Manufacturing Equipment	
	Restricted Funds	211,000
du.	Terminal Sterilizing Autoclave	
	Restricted Funds	221,000
dv.	Fluorescene Analyzer	
	Restricted Funds	109,000
dw.	High Performance Liquid Chromatography	
	Restricted Funds	131,000
dx.	Image Analysis System	
	Restricted Funds	206,000
dy.	Confocal Microscope	
	Restricted Funds	325,000
dz.	Epi-Fluorescene Microscope	
	Restricted Funds	134,000
ea.	Gas Chromatograph Mass Spectrometer	
	Restricted Funds	258,000
eb.	Flow Cytometry Lab	
	Restricted Funds	375,000
ec.	Ultracentrifuge	
	Restricted Funds	117,000
ed.	9.4 Tessler Scanner	
	Restricted Funds	868,000
ee.	600 MHz NMR System	
	Restricted Funds	1,753,000
ef.	800 MHz NMR System	
	Restricted Funds	2,903,000
eg.	DNA Synthesizer	
	Restricted Funds	103,000
eh.	Fluorescent Activated Cell Sorter	

	Restricted Funds	237,000
ei.	Protein Synthesizer	
	Restricted Funds	206,000
ej.	Research Grade Light Microscope	
	Restricted Funds	103,000
ek.	High Resolution Phosophor Imager	
	Restricted Funds	206,000
el.	DNA Sequencer	
	Restricted Funds	134,000
em.	3T Human Research System	
	Restricted Funds	2,527,000
en.	Mammography X-Ray Unit	
	Restricted Funds	101,000
eo.	Sequence Detection System	
	Restricted Funds	100,000
ep.	Fluor. Microscope and Image Analysis System	
	Restricted Funds	150,000
eq.	Auto. Poly. Chain Reaction Analysis Machine	
	Restricted Funds	150,000
er.	DNA Sequencer	
	Restricted Funds	158,000
es.	Laser Confocal Microscope	
	Restricted Funds	312,000
et.	Inverted Microscope Including Fluoroscope	
	Restricted Funds	155,000
eu.	Image Analyzer System	
	Restricted Funds	206,000
ev.	Electrophysiologic Analysis System	
	Restricted Funds	207,000
ew.	Multiphoton Imaging System	
	Restricted Funds	505,000
ex.	Behavioral Monitoring & Analysis System	
	Restricted Funds	150,000
ey.	Gene Chip Instrument System	
	Restricted Funds	450,000
ez.	Combi. Met. Cart, ECG, Auto BP, Plethusmography	
	Restricted Funds	123,000
fa.	Upgrade Scanner System	
	Restricted Funds	500,000
fb.	Gas Chromatograph Mass Spectrometer	
	Restricted Funds	250,000
fc.	Multiphoton Scanning Microscope	
	Restricted Funds	300,000
fd.	Plot Combine with Weighing System	
	Restricted Funds	125,000
fe.	HPLC/Mass Spectrometer System	
	Restricted Funds	300,000
ff.	X-Ray Fluorescence	

	Restricted Funds	130,000	
fg.	Transmission Electron Microscope		
	Restricted Funds	200,000	
fh.	Oxymax Open Circuit Calorimeter		
	Restricted Funds	100,000	
fi.	Virtual Environment Simulator		
	Restricted Funds	125,000	
fj.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
fk.	Inductive Coupled Argon Plasma Unit		
	Restricted Funds	110,000	
fl.	DNA Sequencer/Gene Mapping		
	Restricted Funds	130,000	130,000
fm.	High Throughput DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
fn.	DNA Chip Analysis System		
	Restricted Funds	160,000	
fo.	Luminometer		
	Restricted Funds	110,000	
fp.	Robotics Pipettor System		
	Restricted Funds	104,000	
fq.	Confocal Microscope		
	Restricted Funds	130,000	
fr.	Ultracentrifuge		
	Restricted Funds	110,000	
fs.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
ft.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
fu.	Automated DNA Sequencer		
	Restricted Funds	130,000	
fv.	DNA Sequencer		
	Restricted Funds	125,000	
fw.	Confocal Microscope		
	Restricted Funds	150,000	
fx.	Fluoro/Phosphoimager		
	Restricted Funds	120,000	
fy.	Genetic Analyzer		
	Restricted Funds	140,000	
fz.	Multi-Unit Microbial Containment Chamber		
	Restricted Funds	100,000	
ga.	Transmission Electron Microscope		
	Restricted Funds	300,000	
gb.	Plot Combine		
	Restricted Funds	125,000	
gc.	Forage Harvester System		
	Restricted Funds	150,000	
gd.	HPLC-Mass Spectrometer		

	Restricted Funds	217,000
ge.	Plot Combine	
	Restricted Funds	130,000
gf.	Inductive Coupled Plasma Spectrometer System	
	Restricted Funds	120,000
gg.	Mass Spectrometer	
	Restricted Funds	200,000
gh.	Near Infrared Reflectance Spectrometer	
	Restricted Funds	125,000
gi.	Confocal Microscope	
	Restricted Funds	130,000
gj.	Laser Ablation Sampling System	
	Restricted Funds	200,000
gk.	Gas Analyzer	
	Restricted Funds	100,000
gl.	NMR Spectrometer 300 MHz	
	Restricted Funds	400,000
gm.	ESCA - X-Ray Photoelectron Microscope	
	Restricted Funds	400,000
gn.	Fourier-transform Infra-Red Raman Spectrometer	
	Restricted Funds	175,000
go.	Field Emission Scanning Electron Microscope	
	Restricted Funds	175,000
gp.	System for Materials Forming	
	Restricted Funds	180,000
gq.	Instrumentation for Materials Characterization	
	Restricted Funds	150,000
gr.	High Resolution Optical Microscope	
	Restricted Funds	110,000
gs.	Gas Chromatograph/MSD	
	Restricted Funds	110,000
gt.	Networked Printer	
	Restricted Funds	200,000
gu.	Printing System	
	Restricted Funds	200,000
gv.	Digital Orbitor Camera	
	Restricted Funds	250,000
gw.	EKG Management System	
	Restricted Funds	250,000
gx.	Cardiac Cath Laboratory Unit	
	Restricted Funds	9,280,000
gy.	Electrophysiology Laboratory	
	Restricted Funds	1,740,000
gz.	Digital Enhancement	
	Restricted Funds	986,000
ha.	General Radiography Unit	
	Restricted Funds	928,000
hb.	Surgical Microscope	

	Restricted Funds	400,000
hc.	Laboratory Analyzer	
	Restricted Funds	400,000
hd.	Radiation Therapy Unit	
	Restricted Funds	2,088,000
he.	Mobile Fluoroscopy	
	Restricted Funds	200,000
hf.	Surgical Laser	
	Restricted Funds	400,000
hg.	CT Scanner	
	Restricted Funds	1,740,000
hh.	General Radiography/Fluoroscopic Unit	
	Restricted Funds	500,000
hi.	OB Ultrasound	
	Restricted Funds	300,000
hj.	Vascular Ultrasound	
	Restricted Funds	300,000
hk.	Cardiac Ultrasound	
	Restricted Funds	1,600,000
hl.	Endoscopic Video System	
	Restricted Funds	300,000
hm.	Angiography Unit	
	Restricted Funds	1,740,000
hn.	Neuro-Radiography Unit	
	Restricted Funds	1,740,000
ho.	SPECT System	
	Restricted Funds	870,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	Radiology Ultrasound	
	Restricted Funds	400,000
hr.	Mobile Radiology Unit	
	Restricted Funds	200,000
hs.	General Radiology Unit	
	Restricted Funds	928,000
ht.	Gamma Knife Upgrade	
	Restricted Funds	2,320,000
hu.	EMG Unit	
	Restricted Funds	200,000
hv.	MRI Upgrade	
	Restricted Funds	500,000
hw.	Digital Radiology	
	Restricted Funds	4,060,000
hx.	Fluoroscopy Unit	
	Restricted Funds	500,000
hy.	Endoscopy Video Ultrasound	
	Restricted Funds	250,000
hz.	Treatment Planning System	

	Restricted Funds	1,392,000
ia.	Angiography Unit	
	Restricted Funds	1,160,000
ib.	ATL Ultrasound	
	Restricted Funds	200,000
ic.	Biplane Angiography	
	Restricted Funds	1,160,000
id.	Cardiac Catheterization Image Management System	
	Restricted Funds	870,000
ie.	C-Arm X-Ray Unit	
	Restricted Funds	250,000
if.	C-Arm X-Ray Unit	
	Restricted Funds	400,000
ig.	C-Arm X-Ray Unit	
	Restricted Funds	350,000
ih.	CR PAC Server	
	Restricted Funds	250,000
ii.	CT Scanners	
	Restricted Funds	3,480,000
ij.	CT Stimulator	
	Restricted Funds	1,160,000
ik.	Digital Radiology	
	Restricted Funds	928,000
il.	Diagnostic Radiology Unit	
	Restricted Funds	300,000
im.	Endoscopic Ultrasound	
	Restricted Funds	400,000
in.	Electrophysiology Lab	
	Restricted Funds	5,800,000
io.	Filmless System	
	Restricted Funds	120,000
ip.	Intracardiac Laser	
	Restricted Funds	500,000
iq.	Linear Accelerator	
	Restricted Funds	1,856,000
ir.	Mammography Unit	
	Restricted Funds	200,000
is.	Minimally Invasive Room	
	Restricted Funds	1,490,000
it.	Mobile CT	
	Restricted Funds	1,000,000
iu.	Nuclear Medicine Camera	
	Restricted Funds	870,000
iv.	OR Perioperative IS Document System	
	Restricted Funds	200,000
iw.	PACS Server	
	Restricted Funds	800,000
ix.	Portal Imaging System	

	Restricted Funds	200,000	
iy.	QuadRIS		
	Restricted Funds	600,000	
iz.	Radiographic Fluoroscopic Unit		
	Restricted Funds	150,000	
ja.	Radiographic Unit		
	Restricted Funds	350,000	
jb.	Radiographic Units		
	Restricted Funds	1,250,000	
jc.	Steam Autoclave		
	Restricted Funds	375,000	
jd.	Sterrad Sterilizer		
	Restricted Funds	375,000	
je.	Surgical C-Arm (ISS) System		
	Restricted Funds	550,000	
jf.	Teleradiology		
	Restricted Funds	200,000	
jg.	Ultrasound Image Management		
	Restricted Funds	700,000	
jh.	Vascular Ultrasound		
	Restricted Funds	800,000	
ji.	Washer		
	Restricted Funds	230,000	
jj.	Digital Imaging		
	Restricted Funds	870,000	
jk.	General Chemistry Computerization		
	Restricted Funds	385,000	
jl.	Language Lab		
	Restricted Funds	300,000	
jm.	Engineering Research Computing System		
	Restricted Funds	440,000	
jn.	Network Replacement		
	Restricted Funds	78,000	
jo.	Department Computer Upgrade		
	Restricted Funds	225,000	
jp.	Distributed Testbed System		
	Restricted Funds	250,000	
jq.	NSF Fileserver		
	Restricted Funds	150,000	
jr.	Optical Disk Server		
	Restricted Funds	180,000	
js.	Telemedicine Systems		
	Restricted Funds		600,000
jt.	Instructional Multi-Media, Phase II		
	Restricted Funds	1,168,000	730,000
ju.	Compressed Video - Hazard		
	Restricted Funds	141,000	
jv.	Upgrading/Establishing Communication System		

	Restricted Funds	364,000	463,000
jw.	Patient Classification Equipment Rural Health		
	Restricted Funds	260,000	
jx.	Telemedicine Rural Health		
	Restricted Funds	416,000	
jy.	Satellite Uplink Rural Health		
	Restricted Funds	416,000	
jz.	Virtual Reality Computing System		
	Restricted Funds	150,000	
ka.	Database Testbed		
	Restricted Funds	225,000	
kb.	Campus Infrastructure Upgrade		
	Restricted Funds	1,750,000	1,750,000
kc.	UNIX Server		
	Restricted Funds	1,200,000	
kd.	Research Computing		
	Restricted Funds	3,500,000	
ke.	Storage Management Upgrade		
	Restricted Funds	200,000	
kf.	Imaging System Upgrade		
	Restricted Funds		275,000
kg.	Mainframe Upgrade		
	Restricted Funds	1,500,000	
kh.	Video Switch		
	Restricted Funds	250,000	
ki.	Upgrade HIS Computing Facilities		
	Restricted Funds	2,900,000	
kj.	Clinical Information System		
	Restricted Funds	3,480,000	
kk.	Digital Medical Record Expansion		
	Restricted Funds	4,640,000	
kl.	Patient System Enterprise		
	Restricted Funds	4,640,000	
km.	Managed Care Enterprise		
	Restricted Funds	1,160,000	
kn.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
ko.	State Communication Enterprise		
	Restricted Funds	3,480,000	
kp.	Mass Storage Capability		
	Restricted Funds	200,000	
kq.	Upgrade Disk Capacity		
	Restricted Funds	250,000	
kr.	Upgrade Telecommunications Facilities		
	Restricted Funds	250,000	
ks.	UK Center for Rural Health Reauthorization		
9.	University of Louisville		

a.	Code Improvements - Fire Safety Pool		
	Restricted Funds	1,029,000	
b.	Americans Disabilities Act (ADA) Project Pool		
	Restricted Funds	2,638,000	
c.	Capital Renewal Project Pool		
	Restricted Funds	6,225,000	
d.	Support Services Land Acquisition (Northeast)		
	Restricted Funds	4,202,000	
e.	Student Services Building Renovation (Houchens)		
	Restricted Funds	5,489,000	
f.	Chemistry Fume Hood Redesign		
	Restricted Funds	5,397,000	
g.	Reynolds Building Renovation - Housing and Support Services		
	Other Funds	15,433,000	
h.	Environmental Health and Safety Project Pool		
	Restricted Funds	360,000	
i.	Sports and Recreation Institute		
	Other Funds	26,247,000	
j.	Life Sciences Lab Ventilation Renovation		
	Restricted Funds	3,638,000	
k.	Multi-Cultural Center Building		
	Restricted Funds		5,096,000
l.	Chlorofluorocarbon Project, Phase III		
	Restricted Funds	1,953,000	
m.	Dental Clinic and Sterilization Renovation		
	Other Funds		3,363,000
n.	Early Childhood "EDUCARE" Center		
	Federal Funds	3,211,000	
o.	HSC Parking Garage - Two Additional Floors		
	Restricted Funds	4,609,000	
p.	Research Resources Center Expansion		
	Other Funds	6,473,000	
	Restricted Funds	2,158,000	
	Total	8,631,000	
q.	MDR Renovation, Phase II, Building 51		
	Restricted Funds		1,619,000
r.	Residence Hall - 600 Beds-Metro Col, Phase II		
	Other Funds	27,843,000	
s.	Cardinal Park - Natatorium		
	Other Funds	12,373,000	
	Restricted Funds	7,266,000	
	Total	19,639,000	
t.	Purchase & Renovate Building (Home of Innocents)		
	Other Funds		3,553,000
	Restricted Funds		3,553,000
	Total		7,106,000
u.	Research Building (Belknap Campus)		
	Bond Funds	25,000,000	

	Restricted Funds	16,368,000	
	Total	41,368,000	
v.	Stoddard Johnston School Renovation		
	Restricted Funds		6,350,000
w.	Pedestrian Overpass at Stadium (Brook Street)		
	Federal Funds	1,901,000	
	Other Funds	475,000	
	Total	2,376,000	
x.	Window Replacements (Belknap Campus)		
	Other Funds	2,694,000	
y.	Cardinal Park - Practice Field, Multicourts, Cardiopath		
	Other Funds	2,813,000	
z.	Health Sciences Library Infrastructure & Renovation		
	Restricted Funds	2,450,000	
aa.	Purchase Parking Space on Health Sciences Campus		
	Restricted Funds	825,000	
ab.	Ekstrom Library Infrastructure and Renovation		
	Restricted Funds	1,924,000	
ac.	Deferred Maintenance Project Pool		
	Restricted Funds	250,000	
ad.	Guaranteed Energy Cost Savings Project (HB-639)		
	Other Funds	3,000,000	
ae.	Boathouse for Rowing Team		
	Other Funds	2,300,000	
af.	Radiographic/Fluroscopic Imaging Unit		
	Restricted Funds	195,000	
ag.	Digital Micro-Luminography System for TEM		
	Restricted Funds		120,000
ah.	Electronic Darkroom		
	Restricted Funds	113,000	
ai.	Gel/Blot Image Analysis System		
	Restricted Funds	145,000	
aj.	High Resolution SEM-Backscatter Detector		
	Restricted Funds	160,000	
ak.	Automated DNA Sequencer		
	Restricted Funds		159,000
al.	Eximer Laser		
	Restricted Funds		600,000
am.	Video Diagnostic Analysis System		
	Restricted Funds		154,000
an.	White Blood Cell Velocity Measurement System		
	Restricted Funds		126,000
ao.	Diode Laser		
	Restricted Funds		100,000
ap.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	317,000	
aq.	Animal Irradiator		
	Restricted Funds	154,000	

ar.	Interm. Voltage Transmission Electron Microscope		
	Restricted Funds	350,000	
as.	Nailfold Microvascular Analysis System		
	Restricted Funds	119,000	
at.	In Vivo Thrombosis Detection & Quant. System		
	Restricted Funds	168,000	
au.	Peptide Sequencer		
	Restricted Funds	151,000	
av.	Small Vein In Vivo Diagnostic System		
	Restricted Funds	197,000	
aw.	Automated Synthesizer		
	Federal Funds	100,000	
	Restricted Funds	100,000	
	Total	200,000	
ax.	FT IR Spectrometer		
	Federal Funds		75,000
	Restricted Funds		75,000
	Total		150,000
ay.	Scanning Tunneling Microscope		
	Restricted Funds	140,000	
az.	Capillary Electrophoresis - Mass Spectrometer		
	Restricted Funds		200,000
ba.	EPR Spectrometer Update		
	Federal Funds		65,000
	Restricted Funds		60,000
	Total		125,000
bb.	NMR Spectrometer (750 MHz NMR)		
	Federal Funds	800,000	
	Restricted Funds	400,000	
	Total	1,200,000	
bc.	Trash Compactor Truck		
	Restricted Funds	135,000	
bd.	SEM Accessories for Elemental Analysis		
	Restricted Funds	165,000	
be.	Peak 3D Comp Motion Measurement & Analysis System		
	Restricted Funds	120,000	
bf.	Atomic Absorption Spectrometer, High-Resolution		
	Restricted Funds	110,000	
bg.	Ultra High Vacuum Chamber		
	Restricted Funds	310,000	
bh.	Metallorganic Chemical Vapor Deposition		
	Restricted Funds	210,000	
bi.	Mechanical Spectrometer - Rheometrics		
	Restricted Funds	160,000	
bj.	Axial/Torsional Tester		
	Restricted Funds	195,000	
bk.	Microelectronics Processing System		
	Restricted Funds	162,000	

bl.	Dynamometer		
	Restricted Funds	122,000	
bm.	IR Spectrometer		
	Restricted Funds	110,000	
bn.	X-Ray Fluorescence Spectrometer		
	Restricted Funds	210,000	
bo.	Micro CT Scanner		
	Restricted Funds	300,000	
bp.	XPS/Auger Spectroscope		
	Restricted Funds	253,000	
bq.	Laser Ablation Unit		
	Restricted Funds		230,000
br.	Sputtering Unit		
	Restricted Funds	162,000	
bs.	Materials Testing System		
	Restricted Funds	189,000	
bt.	Load Application System		
	Restricted Funds		208,000
bu.	Visualization System		
	Restricted Funds	121,000	
bv.	CNC Grinding Machine		
	Restricted Funds	169,000	
bw.	Correlation Microscope		
	Federal Funds	190,000	
	Restricted Funds	5,000	
	Total	195,000	
bx.	Full Object Scanner		
	Restricted Funds	360,000	
by.	Finishing Device		
	Restricted Funds		250,000
bz.	Color Digital Output Engine		
	Restricted Funds	700,000	
ca.	Florescent Spectrometer		
	Federal Funds		135,000
	Restricted Funds		135,000
	Total		270,000
cb.	Neuro Scan ESI-128: 128 Channel ERP System		
	Federal Funds	40,000	
	Restricted Funds	100,000	
	Total	140,000	
cc.	X-Ray Diffraction Module		
	Federal Funds		250,000
	Restricted Funds		500,000
	Total		750,000
cd.	Laser Microfabrication Lab		
	Federal Funds		275,000
	Restricted Funds		275,000

	Total		550,000
ce.	Infra-Red Imaging System		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
cf.	Large Area Microplating		
	Federal Funds		150,000
	Restricted Funds		150,000
	Total		300,000
cg.	Differential Scanning Calorimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ch.	Circular Dichroism Spectropolarimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ci.	Laser Spectrometer		
	Federal Funds		93,000
	Restricted Funds		100,000
	Total		193,000
cj.	Electronic Journals and Full Text - Libraries		
	Restricted Funds	2,000,000	
ck.	Electronic Journals and Full Text - Libraries		
	Restricted Funds	1,000,000	
cl.	Nuclear Medicine Hot Lab		
	Restricted Funds	107,000	
cm.	Flow Cytometer		
	Restricted Funds	165,000	
cn.	High Performance Q-TOF Spectrometer		
	Restricted Funds	500,000	
co.	HPLC-Ion Resonance Cyclotron		
	Restricted Funds	180,000	
cp.	Microcalorimeter		
	Restricted Funds	137,000	
cq.	Nucleic Acid Microchip Analyzer		
	Restricted Funds		185,000
cr.	Analytical Centrifuge		
	Restricted Funds		139,000
cs.	Inductively Coupled Plasma Spectrometer		
	Restricted Funds		160,000
ct.	Plasmon Resonance Instrument (Biochem - X)		
	Restricted Funds		107,000
cu.	DNA CEQ 2000 Analysis System		
	Restricted Funds		150,000
cv.	Geneotype Nucleic Acid Chip Analyzer		
	Restricted Funds		200,000
cw.	Confocal Microscope (OPTH)		

	Restricted Funds	401,000	
cx.	Confocal Microscope (ASN)		
	Restricted Funds		280,000
cy.	Plasmon Resonance Instrument (Biochem - 3000)		
	Restricted Funds	250,000	
cz.	MALDI-Reflex-TOF		
	Restricted Funds	310,000	
da.	ACUSON - Aspen Ultrasound Imaging System		
	Restricted Funds	176,000	
db.	Human Patient Simulator		
	Restricted Funds	1,110,000	
dc.	Flow Cytometer/Cell Sorter		
	Restricted Funds	152,000	
dd.	NMR Instrument 600 MHz		
	Federal Funds	600,000	
	Restricted Funds	1,300,000	
	Totals	1,900,000	
de.	Expand Medical Information Technology Infrastructure		
	Restricted Funds	500,000	
df.	Student Records Imaging Storage & Retrieval System		
	Restricted Funds	475,000	
dg.	Wiring for Computer Access - Residence Halls		
	Restricted Funds	600,000	
dh.	Fiber Optic LAN/Computer-Based Instruction System		
	Restricted Funds	427,000	
di.	Compressed Video Conferencing Room and Instruction Lab		
	Restricted Funds	446,000	
dj.	Computer Workstations for Libraries		
	Restricted Funds	200,000	
dk.	Collaborative Learning Centers - Libraries		
	Restricted Funds	557,000	
dl.	OC3 Network Equipment		
	Restricted Funds	315,000	
dm.	High Speed Graphics Imaging System		
	Restricted Funds		200,000
dn.	Network Switching System		
	Restricted Funds	300,000	300,000
do.	Digital Communications Network		
	Restricted Funds	1,500,000	
dp.	Voice Automation Enhancements		
	Restricted Funds	250,000	
dq.	Digital Microwave Network		
	Restricted Funds	250,000	
dr.	Computer Processing System		
	Restricted Funds	1,500,000	500,000
ds.	Mainframe Memory		
	Restricted Funds	250,000	250,000
dt.	High Volume Output Devices/Duplicators		

	Restricted Funds	376,000	500,000
du.	Engineering/Scientific Processor		
	Restricted Funds	600,000	500,000
dv.	Client/Server System/File Server(s)		
	Restricted Funds	600,000	500,000
dw.	Specialized Central Processing Unit		
	Restricted Funds	250,000	250,000
dx.	Storage System(s)		
	Restricted Funds	500,000	500,000
dy.	Virtual Reality Display System		
	Federal Funds		100,000
	Restricted Funds		100,000
	Total		200,000
dz.	High Energy Physics Data Analysis System		
	Federal Funds		200,000
	Restricted Funds		200,000
	Total		400,000
ea.	Condensed Matter Theory Computational System		
	Federal Funds		175,000
	Restricted Funds		160,000
	Total		335,000
eb.	Client/Server Alumni/Dev. Information Systems		
	Restricted Funds	750,000	
ec.	Digital Television Production Switcher		
	Restricted Funds	200,000	
ed.	Satellite Uplink Truck		
	Restricted Funds	200,000	
ee.	Intelligent Laser and Lighting System		
	Restricted Funds	360,000	
ef.	Computer Visualization System		
	Restricted Funds	655,000	
eg.	Commonwealth Virtual Univ. Lib Server-Upgrades		
	Restricted Funds	250,000	250,000
eh.	One Card/Phase I & II		
	Restricted Funds	450,000	450,000
ei.	Supercomputing System		
	Restricted Funds	1,500,000	
ej.	Telecommunications Switch		
	Restricted Funds	750,000	
ek.	Schultz Building Lease		
10.	Western Kentucky University		
a.	E & G Capital Renewal/Life Safety Pool		
	Restricted Funds	8,935,000	
b.	Campus Energy Conservation		
	Other Funds	3,750,000	
c.	Ivan Wilson Center Chiller(s) Replacement		
	Restricted Funds	562,000	
d.	Agriculture Exposition Center HVAC Improvements		

		Restricted Funds	731,000
e.	Public Radio and Television Transmission Tower		
		Restricted Funds	615,000
f.	Western Kentucky University Primary Electric Svc.		
		Restricted Funds	3,000,000
g.	Garrett Conference Center HVAC Project		
		Restricted Funds	600,000
h.	Cravens Repair Leaking Windows		
		Restricted Funds	591,000
i.	Academic Complex Replace VAV Boxes		
		Restricted Funds	638,000
j.	Academic Complex ACM Floor Tile Abatement		
		Restricted Funds	957,000
k.	Van Meter Renovation - Design		
		Restricted Funds	935,000
l.	Science Complex Renovation and Expansion		
		Bond Funds	15,000,000
		Restricted Funds	11,000,000
		Total	26,000,000
m.	Gordon Wilson Renovation - Design		
		Restricted Funds	437,500
n.	E S & T Replace Duct Work and HVAC Controls		
		Restricted Funds	633,000
o.	Kentucky Building HVAC Replacement		
		Restricted Funds	880,000
p.	Helm Library Fire Alarm Replacement		
		Restricted Funds	554,000
q.	Ivan Wilson Fine Arts Center Life Safety		
		Restricted Funds	441,000
r.	Telephone Infrastructure		
		Restricted Funds	3,000,000
s.	Digital Television Transmission System		
		Federal Funds	800,000
		Restricted Funds	800,000
		Total	1,600,000
t.	Campus Communications Network Expansion		
		Restricted Funds	750,000
u.	ADA Accessible Shuttle Buses		
		Restricted Funds	360,000
v.	Confocal Microscope		
		Restricted Funds	110,000
w.	Video Server		
		Restricted Funds	800,000
11.	Kentucky Community and Technical College System		
a.	West Kentucky College: Roof Replacement		
		Restricted Funds	999,000
b.	Cumberland TC, Harlan Campus: Renovate Building 2		
		Bond Funds	4,114,000

c.	Mayo Technical College: Campus Renovation	
	Bond Funds	7,582,000
d.	Elizabethtown TC: HVAC System Replacement 66 and 75 Building	
	Restricted Funds	834,000
e.	Bowling Green TC: Replace Roofs, Buildings G and H	
	Restricted Funds	532,000
f.	Ashland Technical College: Original Campus Renovation	
	Bond Funds	6,900,000
g.	KCTCS Capital Renewal Project Pool	
	Restricted Funds	10,165,000
h.	Jefferson Technical College: HVAC System Replacement	
	Restricted Funds	2,491,000
i.	Somerset TC: Fire and Sprinkler System	
	Restricted Funds	525,000
j.	KCTCS Deferred Maintenance & Government Mandate Pool	
	Restricted Funds	3,571,000
k.	KCTCS Program Renovation Pool	
	Restricted Funds	5,368,000
l.	Northern KY Community & Technical College, Phase I	
	Bond Funds	10,000,000
m.	Jefferson CC: Renovation of Downtown Campus	
	Bond Funds	8,800,000
n.	Elizabethtown CC - Science Building Renovation	
	Bond Funds	2,200,000
o.	Southeast CC - Newman Hall Renovation	
	Bond Funds	2,000,000
p.	Madisonville CC: Muhlenberg Campus	
	Reauthorization	
q.	Guaranteed Energy Savings Project Pool	
	Restricted Funds	5,000,000
r.	Hazard Technical College: Bulldozer	
	Restricted Funds	478,000
s.	Hazard Technical College: Trackhoe	
	Restricted Funds	150,000
t.	Ashland Technical College: Computer Interfaced Distillation Col.	
	Restricted Funds	114,000
u.	Mayo Technical College: Milling Machine	
	Restricted Funds	130,000
v.	Mayo Technical College: Johnson Phaser - Shape Cutter	
	Restricted Funds	150,000

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2000-01	2001-02
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Housing, Buildings and Construction		
a. Franklin County - Lease		

N. REVENUE

Budget Unit	2000-01	2001-02
1. Office of the Secretary		
a. Network Infrastructure Replacement		
Capital Construction Surplus	200,000	
b. Franklin County - Lease (100 Fair Oaks)		
c. Franklin County - Lease (200 Fair Oaks)		
d. Franklin County - Lease (Perimeter Park, Louisville Road)		

O. TOURISM DEVELOPMENT CABINET

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

Budget Unit	1999-00	2000-01	2001-02
1. Kentucky State Fair Board			
a. Roof Replacement			
Restricted Funds		800,000	
b. Freedom Hall - Refurbish Seats			
Restricted Funds		800,000	
c. Freedom Hall - Portable Trailers			
Restricted Funds			1,250,000
d. Maintenance Pool			
Restricted Funds		1,000,000	1,000,000
2. Department of Fish and Wildlife Resources			
a. Land Acquisition			
Restricted Funds		500,000	500,000
b. Maintenance Pool			
Restricted Funds		200,000	200,000
3. Kentucky Horse Park			
a. Muck Processing Facility			
General Fund		375,000	
b. Maintenance Pool			
Investment Income		375,000	475,000
4. Department of Parks			
a. Maintenance Pool			
Investment Income		4,200,000	4,200,000
b. Barren River HVAC Upgrade			
General Fund			
Additional	200,000		
c. Nolin Park - Campground/Infrastructure			
Reauthorization			
d. Natural Bridge - Remediation Petroleum Contamination			
Deferred Maintenance		300,000	
e. Yatesville - Golf Course Development			
Reauthorization			
f. Grayson Lake - Golf Course Design			
Reauthorization			
g. Taylorsville Lake - Community Pool Design			
Reauthorization			

h.	Jefferson Davis Monument- Repairs		
	Emergency Repair Maintenance		
	Additional	2,210,000	
i.	Mineral Mound - Golf Course Development		
	Reauthorization		
j.	Kincaid Lake - Golf Course Development (Nine Hole)		
	Reauthorization		
k.	Pennyrile - Golf Course Development		
	Reauthorization		
l.	Dale Hollow - Golf Course Development		
	Reauthorization		
m.	My Old Kentucky Home - Golf Course Development		
	Reauthorization		
n.	Columbus - Belmont - Park Development		
	Reauthorization		
o.	Fort Boonesborough - Reroof Fort Buildings		
	Bond Funds		500,000
p.	Lake Barkley - Trap Shoot		
	Reauthorization		

P. TRANSPORTATION CABINET

Budget Unit		2000-01	2001-02
1.	General Administration and Support		
a.	Transportation Building Parking Structure - New Construction		
	Bond Funds	20,700,000	
b.	Boone County Maintenance Building		
	Road Fund		515,000
c.	Powell County Maintenance Facility		
	Road Fund	900,000	
d.	Mason County Maintenance Facility		
	Road Fund		710,000
e.	Loadometer & Rest Area Maintenance and Repair		
	Road Fund	600,000	600,000
f.	Building Renovation & Emergency Repairs		
	Road Fund	500,000	500,000
g.	Painting and Roof Replacement		
	Road Fund	250,000	250,000
h.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
i.	Various Waste Treatment & Water Supply Projects		
	Road Fund	100,000	100,000
j.	Hydraulic Hoists, Heavy Equipment		
	Road Fund		100,000
k.	New Transportation Office Building		
	Reauthorization		
	Bond Funds - Additional	7,500,000	
l.	Campbell County Maintenance Facility		
	Road Fund	500,000	
	Restricted Funds	465,000	

	Total	965,000	
m.	Elizabethtown District Office Building		
	Road Fund	3,810,000	
n.	Road Maintenance/Various Parks		
	Road Fund	2,000,000	500,000
o.	Electronic Digital Surveying Systems		
	Road Fund	225,000	
p.	Weigh in Motion/Traffic Data Collection Equipment		
	Road Fund	310,000	320,000
q.	Direct Tension Tester for Asphalt		
	Road Fund	140,000	
r.	Soil Resilient Modulus Testing System		
	Road Fund		264,000
s.	X-Ray Fluorescence & X-Ray Diffraction Analyzers		
	Road Fund	155,000	220,000
t.	Mail Inserter/Burster Machine		
	Road Fund	130,000	
u.	MVE Mobile Computers and Peripherals		
	Road Fund		1,000,000
v.	Conversion & Web Pub. of Microfilm Plans		
	Road Fund		325,000
w.	Digitized Drivers Licensing		
	Reauthorization		
	Road Fund -Additional	180,000	2,160,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit			2000-01	2001-02
1.	General Administration and Program Support			
	a.	Maintenance Pool		
		Investment Income	250,000	425,000
2.	Vocational Rehabilitation			
	a.	Franklin County - Lease		
	b.	Carl D. Perkins Center: Rooftop Unit Replacement		
		Deferred Maintenance	369,000	
3.	Department for the Blind			
	a.	Franklin County - Lease		
4.	Office of Training and Reemployment			
	a.	Franklin County - Lease		

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2000, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2000; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 1998-2000 appropriated maintenance pools shall remain subject to the provisions of KRS 45.770(4)(c) and (d). Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2000.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium and a partial amount of the annual debt service required has been provided so that preliminary work on the projects may proceed. The full amount of annualized debt service has been included at the beginning of fiscal year 2001-2002. Therefore, the sale of any permanent bonds to finance these projects shall occur after

January 1, 2001.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund and that certain projects require a direct appropriation from the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 1999-2000 or in fiscal year 2000-2001, any debt service lapse necessary to bring the fund balance to $5,000,000 in either of these fiscal years shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 1999-2000 or fiscal year 2000-2001 in debt service lapse shall be deposited to the statutory Deferred Maintenance Pool Account. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Pool shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool." For the Agency Bond Pool, $35,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2000-2002 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

9. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects, Infrastructure projects, Asbestos Abatement projects, Technology Trust Fund projects, systems, and initiatives authorized in Part X of this Act, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget

bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2000-2001 or fiscal year 2001-2002, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet..

3. Except as otherwise provided in KRS 48.630(9) and (10) and in this Act, a budget unit may requisition for expenditure from its Restricted Funds accounts or Federal Funds accounts, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 2001, and during the fiscal year ending June 30, 2002, all receipts placed to the credit of its funds accounts in each respective year, in addition to any balance which the budget unit may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the FB 2000-2002 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

4. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

6. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

7. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

8. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

9. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 3 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

10. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

11. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

12. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made herebefore or hereafter for the fiscal year ending June 30, 2000, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

13. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

14. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2000 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2000 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2000-2002 biennium, and based upon supporting documentation and legislative records as considered by the 2000 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

15. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

16. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

17. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

18. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2000 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 1998 Regular Session to sine die adjournment of the 2000 Regular Session is not confirmed by the 2000 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 1999-2000 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2000 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

19. Notwithstanding KRS 48.705(2), there shall be no General Fund surplus revenue receipts or unexpended balances of appropriations deposited in the Budget Reserve Trust Fund Account for fiscal year 2000-2001 or fiscal year 2001-2002 except as otherwise provided in this Act. Existing funds in the account in an amount specified in this Act may be used as provided otherwise in this Act or as designated in Part VI, General Fund Budget Reduction Plan, if General Fund receipts during fiscal year 2000-2001 or fiscal year 2001-2002 are not sufficient to meet the level of General Fund appropriations included in biennial budget bills or any enactment by the 2000 General Assembly which contains an appropriation provision.

20. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System from July 1, 2000, through June 30, 2002, shall be no more than 5.89 percent for nonhazardous duty employees and 18.84 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 21.58 percent.

21. By August 15, 2001, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

22. By October 15, 2001, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

23. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2000 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

24. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

25. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

26. It is the intent of the General Assembly that the Executive Branch implement actions necessary to achieve cost savings as intended, authorized, and directed by 1998 Kentucky Acts, and 1998 House Bill 321 (1998 Ky. Acts ch. 615, Part X), by authorizing the Executive Branch, within the limitations provided for in this Act, to transfer General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit solely within the Cabinets for Families and Children, Finance and Administration, Health Services, Justice, Natural Resources and Environmental Protection, and Workforce Development, and the Department of Education. Any transfer of General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit shall be made only within each specified Cabinet and the Department of Education and shall be limited to the General Fund cost savings amounts identified in the 2000-2002 agency budget request and executive records. The Secretary of any of the specified cabinets and the Commissioner of the Department of Education may submit requests to the State Budget Director of the Governor's Office for Policy and Management for the transfer of General Fund appropriation authority. Such requests shall specify the need for the transfer of General Fund appropriation authority and the manner in which such a transfer would better achieve the General Fund cost savings. Any transfers made under this provision for any of the cabinets identified above or the Department of Education shall result in no change to the total value of the General Fund cost savings amounts as identified in the agency budget request records recommendation and executive records for the individual cabinets specified above or the Department of Education. Any transfer made under this provision shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

27. For fiscal year 2000-2001 and fiscal year 2001-2002, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

28. Notwithstanding the provisions in Parts I, II, IX, or X of this Act, the amount from the undesignated fiscal year 2000-2001 General Fund balance (General Fund Surplus Account, KRS 48.700) that is carried forward to fiscal year 2001-2002 for budgeted purposes shall be specified in the statutory budget memorandum. This amount may be adjusted in accordance with KRS 48.120(3).

29. Notwithstanding KRS 142.311(2), the dispensing or delivering of outpatient prescription drugs in this state shall be taxed at the rate of fifteen cents ($0.15) per prescription for which any initial payment is received after June 30, 1999, through June 30, 2000. There shall be no tax on outpatient prescriptions after June 30, 2000.

30. Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

31. The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems. The following provisions apply to that Technology Trust Fund and any additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

32. The General Assembly has determined that the following provisions shall apply to all General Fund appropriations to the Technology Trust Fund originally authorized and appropriated by the 1996 Ky. Acts ch. 380, Part X and renewed and expanded by the 1998 Kentucky Acts and House Bill 321 (1998 Ky. Acts ch. 615, Part X).

33. Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item in the Operating Budget and the Capital Budget.

34. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2000-2002 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2000-2002 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2000, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355 and KRS 16.050, on July 1 of each year, all employees will receive a wage increase based upon the budgeted cost-of-living index. For the 2000-2002 biennium, this wage adjustment will be 2.4 percent in each fiscal year. An additional wage rate increase of one, two, or three percent as determined by the Personnel Cabinet will be provided on each employee's annual increment date to recognize and compensate the employee for his/her respective years of service in the grade assigned to the job classification. An increase of 2.4 percent to the entry level wage of the KRS Chapter 18A and KRS Chapter 16 salary schedules will also be provided on July 1 of each fiscal year beginning July 1, 2000.

The individual appropriation units defined in Part I of this Act include funds to implement the above provisions of the Wage Equity Plan.

The Personnel Cabinet will also administer a systematic program to assign job classifications to their proper pay grades. On January 1, 2001, classifications that have been determined by the Personnel Cabinet to be below their appropriate pay grade will be raised one grade. Classifications that are five pay grades too low will be raised by two pay grades. On January 1, 2002, classifications that are in grades too low will be raised by one grade. Consistent with this program initiative, employees that are paid less than the new minimum pay for their grade and years of service in the grade assigned to their job classification shall receive a pay raise to that new minimum pay. Continued grade raises in fiscal year 2002-2003 and fiscal year 2003-2004 will bring all job classifications to their proper grade.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 1999-2000, fiscal year 2000-2001, and fiscal year 2001-2002.

		1999-2000	2000-2001	2001-2002
1.	Crime Victims Compensation Board (KRS 346.185)			2,700,000
2.	Department of Insurance (KRS 304.2-400)		461,400	898,600
3.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		3,000,000	3,000,000
4.	Department of Financial Institutions (KRS 287.485)		900,000	900,000
5.	Charitable Gaming Regulatory Account		700,000	740,000

	(KRS 238.570)			
6.	Underground Petroleum Storage Tank Fund (KRS 224.60-130 to KRS 224.60-155)			400,000
7.	Housing, Buildings and Construction (KRS 198B.060; 198B.615; 198B.676; 227.620; 236.130; 318.136)			300,000
8.	Mines and Minerals (KRS 351.110(2) and KRS 353.590)			200,000
9.	Secretary of State-Limited Liability Companies Program (KRS 14.140)	1,000,000	500,000	500,000
10.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 4)		2,500,000	2,500,000
11.	Fleet Management Fund (1998 Ky. Acts ch. 615, Part III, Sec. 1)		1,500,000	1,500,000
12.	Capital Construction Investment Income (KRS 42.500(12))	42,000,000		2,562,400
13.	Teacher's Retirement System-Return of Fiscal Year 1999 Excess Appropriation (KRS 161.550)	3,900,000		
		46,900,000	9,561,400	16,201,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,569,000,000 in fiscal year 1999-2000, $6,984,100,000 in fiscal year 2000-2001, and $7,332,100,000 in fiscal year 2001-2002 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) At the close of fiscal year 1999-2000, consistent with the policy direction and operating assumptions for the SEEK program General Fund appropriation as enacted in House Bill 321 (1998 Ky. Acts ch. 615), $20,600,000 from the Support Education Excellence in Kentucky (SEEK) Program shall lapse to the surplus account of the General Fund.

(3) At the close of fiscal year 1999-2000, the General Fund amounts derived from reduced debt service that shall lapse to the General Fund is not less than $25,000,000. All other excess General Fund appropriations derived from reduced debt service requirements shall lapse pursuant to the provisions in this Act.

(4) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(5) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced

requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(6) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 2000-2001 and fifty percent (50%) of the trust fund balance in fiscal year 2001-2002.

(7) If the actions contained in subsections (1) through (6) of this section are insufficient to eliminate a revenue shortfall of up to five percent (5%) of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is established a Road Fund Budget Reduction Plan for fiscal year 2000-2001 and fiscal year 2001-2002. In the event of an actual or projected deficit in Road Fund revenue receipts of five percent (5%) or less than the revenue estimates of $1,123,210,300 in fiscal year 2000-2001 and $1,163,161,200 in fiscal year 2001-2002 as determined under KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account in excess of $18,823,900 in fiscal year 1999-2000 and $1,616,400 in fiscal year 2000-2001 as provided in the enacted Road Fund budget. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2000-2002 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. ATTORNEY GENERAL

a. Legal Services Contracts: The Attorney General shall present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies shall agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services. The Finance and Administration Cabinet shall execute the financial arrangements as provided under this section, notwithstanding any other provision of the Kentucky Revised Statutes. State agencies shall submit any proposals for legal services to the Office of the Attorney General pursuant to KRS 12.210.

If the Attorney General determines that the provisions in this section require additional staff positions, the Personnel Cabinet and the Governor's Office of Policy and Management shall take timely action to enable the Attorney General to recruit and employ the personnel the Attorney General has determined as necessary. Actions taken under the terms of this section shall be reviewed by the Interim Joint Committee on Appropriations and Revenue as provided in this Act.

b. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

c. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2000-2002 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

d. Asbestos Litigation Fund: Restricted Funds which were appropriated to the Office of the Attorney General by House Bill 321 (1998 Ky. Acts ch. 615) for asbestos litigation administrative costs shall not lapse and shall be transferred to the Unified Prosecutorial System effective July 1, 2000, for prosecutor training.

e. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

f. Prosecutor's Advisory Council Administrative Functions: Notwithstanding the provisions of KRS 15.760(4) and KRS 15.770(5) to the contrary, the Prosecutor's Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

g. Victims Witness Protection Funds: The General Fund appropriation to the Office of the Attorney General for the operation of the Victim Witness Protection Program shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2000-2001 for the same purpose.

h. Court Ordered Settlements: The Office of the Attorney General may distribute court ordered settlements received pursuant to KRS Chapter 367 or multistate litigation for purposes consistent with the nature of the litigation if it is not administratively feasible to return the funds to individuals. The Office of the Attorney General shall notify the Governor's Office for Policy and Management and the Interim Joint Committee on Appropriations and Revenue at least thirty (30) days prior to the proposed distribution of these funds if the funds are not being returned to individuals. The notice shall include the nature of this litigation, the amount of funds to be distributed, the options available for use of the funds, and the recommendation of the Attorney General for fund use.

2. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-128) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2000 General Assembly, subject to the conditions and procedures provided in this Act.

Any additional expenses incurred by the Auditor of Public Accounts for auditing a state agency upon its request, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendment Act of 1996," shall be charged to the agency requesting the audit.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

3. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

4. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

5. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2000-2002.

ECONOMIC DEVELOPMENT

6. ECONOMIC DEVELOPMENT

a. East and West Kentucky Corporations' and Regional Offices' Strategic Plan: The East and West Kentucky Corporations shall each submit an annual plan to the Interim Joint Committee on Appropriations and Revenue and to the Cabinet for Economic Development defining and outlining their respective roles and responsibilities as they relate to, but do not duplicate, the programs of the Cabinet for Economic Development. The Cabinet for Economic Development shall provide to the Interim Joint Committee for Appropriations and Revenue an annual plan for the Regional Offices defining and outlining their efforts toward maximizing return on investments and reducing duplicative efforts with other regional development groups.

b. Regional Industrial Park Program Reports: The Cabinet shall provide a progress report of the Regional Industrial Park Program to the Legislative Research Commission for referral to the appropriate committees by December first of each fiscal year.

c. Bluegrass State Skills Corporation: The Bluegrass State Skills Corporation shall submit quarterly progress reports for the training investment credits program to the Legislative Research Commission for referral to appropriate committees.

d. Kentucky Woods Product Competitiveness Corporation Reports: Notwithstanding KRS 154.47-035, beginning on or before January 15, 2001, and every year thereafter, the Kentucky Woods Product Competitiveness Corporation shall submit a written status report on its projects and activities to the Legislative Research Commission for referral to the appropriate committees. The annual report shall also include the amount of expenditure by activity within each county and the number of employees and relative salaries within the Corporation.

e. Regional Offices: The Regional Offices shall submit quarterly program and status reports to the Legislative Research Commission for referral to the appropriate committees.

f. Flexible Manufacturing Network Program Reports: The Cabinet shall continue to provide quarterly program and financial status reports of the Flexible Manufacturing Network program to the Legislative Research Commission for referral to the appropriate committees.

DEPARTMENT OF EDUCATION

7. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $2,994 per student in average daily attendance in fiscal year 2000-2001 and $3,066 per student in average daily attendance in fiscal year 2001-2002 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Notwithstanding any statutory provisions to the contrary, the vocational education deduct factor shall be fifteen percent in fiscal year 2000-2001 and zero percent in fiscal year 2001-2002.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

For purposes of implementing the provisions of House Bill 469 (1998 Ky. Acts ch. 254), the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 1999 compared to calendar year 1998; the resulting percent increase shall be applicable in both fiscal year 2000-2001 and fiscal year 2001-2002.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Minimum Statewide Salary Schedules: The following is the minimum statewide salary schedule for fiscal year 2000-2001 and fiscal year 2001-2002.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

8. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: The Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

9. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2000-2001 but shall be available if needed in fiscal year 2001-2002. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2000-2001 and $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2001-2002 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 2000-2001 and in fiscal year 2001-2002 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. The Department of Education is authorized to retain $76,900 in fiscal year 2000-2001 and $79,700 in fiscal year 2001-2002 from the funds appropriated for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

10. LEARNING SUPPORT SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Education Professional Standards Board (EPSB): Notwithstanding any statute to the contrary, the EPSB may collect fees for the issuance of certifications. EPSB may charge the following fees at the corresponding amounts: issuance or reissuance (renewal) of regular certificate (to include all previously issued certifications and endorsements) - $50; each transaction to add area(s) of certification or rank - $50; issuance of five-year substitute certificate - $15; issuance of duplicate certificate - $25; reissuance of limited certification - $35.

EDUCATION, ARTS, AND HUMANITIES

11. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

12. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2000-2001 and fiscal year 2001-2002 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

FAMILIES AND CHILDREN

13. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

b. To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer Temporary Assistance to Needy Families (TANF) funds to the Department for Public Health in the Cabinet for Health Services in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. Such transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram.

14. COMMUNITY BASED SERVICES

a. Energy Assistance Trust Fund: Notwithstanding KRS 42.560, only those Restricted Funds necessary to supplement Federal Funds in order to maintain program levels as appropriated, are authorized from the Energy Assistance Trust Fund for fiscal year 2000-01 for the Home Energy Assistance and Weatherization programs.

b. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of 7% of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance.

HEALTH SERVICES

15. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the statutory budget memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

16. MEDICAID ADMINISTRATION

a. It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability Act (HIPA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

17. MEDICAID SERVICES - BENEFITS

a. Hospital Indigent Patient Reporting: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size type set as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

d. Indigent Care Posting: Any provider who receives payment from the Disproportionate Share Hospital Program shall post a sign conspicuously in the lobby, in at least a 16-point type set, stating that they participate in the Disproportionate Share Hospital Program and are consequently required to provide indigent care. Failure to comply with this provision shall result in suspension from the Disproportionate Share Hospital Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

e. Settlement of Obligations Incurred Prior to Prepaid Capitation: The Department is authorized to fulfill financial obligations incurred prior to implementation of prepaid capitation.

f. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997.

g. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

h. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

18. DEPARTMENT FOR PUBLIC HEALTH

a. Kentucky Public Health Departments shall, to the extent possible, perform the following core public health functions: enforcement of public health regulations; surveillance of public health; communicable disease control; public health education; public health policy development; reduction of risk to families and children; and disaster preparedness.

b. Local Health Department Transition Training Program Carryforward: Any General Fund appropriation unexpended in fiscal year 2000-2001 for the Local Health Department Funding Transition Training within the Department for Public Health shall not lapse, but shall be carried forward into fiscal year 2001-2002, notwithstanding KRS 45.229.

c. To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer TANF funds to the Department for Public Health in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. A transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram. 19. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997 in the amount of $30,900,000 in fiscal year 2000-2001 and $29,200,000 in fiscal year 2001-2002.

b. Any Restricted Funds carryforward, up to $900,000 each fiscal year, may be used by the Department for Mental Health and Mental Retardation Services for planned replacement of computers and software in the Residential Services Program.

20. AGING SERVICES

a. Notwithstanding KRS 205.460, entities contracting with the Cabinet to provide essential services under KRS 205.455 and this provision shall provide equal to or greater local match than the amount in effect during fiscal year 1999-2000. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

21. JUSTICE ADMINISTRATION

a. Legal Aid Restrictions: These funds shall be used for providing and arranging civil legal representation for eligible low-income Kentuckians who are currently underserved and for purposes consistent with federal law and regulations. These funds shall not be used for lobbying on issues related to abortion. The recipient of this appropriation shall report annually to the Interim Joint Committee on Appropriations and Revenue on the dispositions of the grant.

22. CORRECTIONS MANAGEMENT

a. Reimbursement to Counties for Interstate Inmate Detainees: The Department of Corrections shall reimburse fifty percent (50%) of documented expense claims for prior year costs incurred by counties for holding interstate inmate detainees awaiting transfer in local jails and the sum of $40,000 in fiscal year 1999-2000 is included in the General Fund appropriation for this purpose.

23. ADULT INSTITUTIONS

a. Inmate Projection/Bed Status and Financial Reports: The Justice Cabinet, Department of Corrections, shall provide a quarterly report regarding inmate population projections relating to state prisoners to the Interim Joint Committee on Appropriations and Revenue. The Justice Cabinet, Department of Corrections, shall provide a monthly status of all bed space utilized to house state prisoners, including state penitentiaries, adult correctional facilities, local jails, regional jails, halfway houses, community confinement programs, and diversion programs. The Justice Cabinet, Department of Corrections, shall provide a quarterly program and financial status report which identifies the expenditure of these funds to the Interim Joint Committee on Appropriations and Revenue. The report shall provide, at a minimum, the purpose for which the expenditure was made; the projected goal to be accomplished and outcomes, and their status; and the number of participants.

b. Reporting Requirements: The Department of Corrections shall require and Private Prison Bed Contractors shall provide to the Department of Corrections an annual report that contains, at a minimum, personnel data that includes a pay scale/job classification structure for all employees; information detailing salaries of personnel and related benefits by pay scale/job classification structure; and the minimum, average, and maximum salary, plus fringe benefits provided for all employed persons. The information provided shall be consistent with the Department of Corrections pay scale and job classification structure for all Department of Corrections employees. Fringe benefits shall be identified separately from salary expense. The Department of Corrections shall annually furnish a report containing the above information plus like data for persons employed in comparable positions within Adult Correctional Facilities statewide to the Personnel Cabinet and Legislative Research Commission.

24. DEPARTMENT OF CORRECTIONS

a. The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2000-2001 and in fiscal year 2001-2002; community services and local facilities, adult correctional institutions, and local jail support. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written concurrence of the State Budget Director of the Governor's Office for Policy and Management who shall report such adjustment to the Interim Joint Committee on Appropriations and Revenue.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

25. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

26. DEPARTMENT FOR NATURAL RESOURCES

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Natural Resources budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

27. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

28. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit, the Natural Resources budget unit, and the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

29. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Natural Resources and Environmental Protection Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

30. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

31. HOUSING, BUILDINGS AND CONSTRUCTION

a. Fire Dispatcher Training: The Commission on Fire Protection Personnel Standards and Education shall pay all expenses for fire dispatchers to attend dispatcher training at the Department of Criminal Justice Training at Eastern Kentucky University.

POSTSECONDARY EDUCATION

32. COUNCIL ON POSTSECONDARY EDUCATION

a. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the 1998 General Assembly.

b. Research Challenge Trust Fund Account: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Research Challenge Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

c. Regional University Excellence Trust Fund: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

TRANSPORTATION CABINET

33. TRANSPORTATION CABINET

a. Transportation Cabinet Office Building Provisions: The Transportation Cabinet shall relinquish the rights to the existing State Office Building in return for the General Fund-supported previously authorized but unissued $18,900,000 bonds that are reauthorized in Part II, Section P, 1.k. of this Act. The General Assembly declares that the new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and that any surplus bond proceeds or debt service appropriations shall be deposited in the State Construction Account. Any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

b. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

c. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited in the State Construction Account.

d. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration or project specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 1998-2000 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four year preconstruction program.

e. The Transportation Cabinet is authorized to select up to five design/build demonstration projects relating to roads. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

WORKFORCE DEVELOPMENT CABINET

34. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2000-2002 fiscal biennium.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2000-2001 and 2001-2002. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance (General Fund Surplus Account, KRS 48.700) are appropriated to the following: Endowment Fund as established in this Part of this Act; and the Budget Reserve Trust Fund established in KRS 48.705. Collectively, these two component funds make up the General Fund Surplus Expenditure Plan for fiscal years 2000-2001 and 2001-2002.

2. The General Fund amount appropriated to the Surplus Expenditure Plan from the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and fiscal year 2000-2001 respectively shall not exceed the total for the appropriations made for fiscal years 2000-2001 and 2001-2002 combined. If the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and at the close of fiscal year 2000-2001 totals less than the total combined Surplus Funds appropriation amounts for fiscal year 2000-2001 and fiscal year 2001-2002, the amount available for appropriation for fiscal year 2000-2001 and for fiscal year 2001-2002 pursuant to this section shall be the total undesignated fund balance amount at June 30, 2000, and at June 30, 2001, for the respective years. These amounts are appropriated in fiscal year 2000-2001 and in fiscal year 2001-2002, and shall be allocated in the following manner: 83.33 percent of the total General Fund surplus balance to the Endowment program of the Research Challenge Trust Fund of the Council on Postsecondary Education, and 16.67 percent to the Endowment program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education not to exceed a total of $120,000,000. In the event that the total General Fund surplus balance at the close of fiscal year 1999-2000 shall be less than $120,000,000, a proportional amount of the General Fund surplus balance shall be allocated to each of the Trust Funds. In the event that the total General Fund surplus balance exceeds $120,000,000 at the close of fiscal year 1999-2000, the amount of the balance that exceeds $120,000,000 shall be credited to the Budget Reserve Trust Fund.

3. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1999-2000, and the close of fiscal year 2000-2001, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2000-2001 and fiscal year 2001-2002.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2000, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2000-2001 pursuant to the Plan.

4. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not certified to be available for expenditure and appropriation in fiscal year 2000-2001, the remaining projects in the same priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance for the General Fund Surplus

Account effective July 1, 2001, for fiscal year 2001-2002.

5. Individual project priority rankings have been established as follows:

Priority	General Fund Surplus Appropriations
I. ENDOWMENT FUND	
A. Council on Postsecondary Education	
Budget Unit Research Challenge Trust Fund	
1. Endowment Program	100,000,000
The total amount is appropriated in fiscal year 2000-2001.	
Budget Unit Regional Universities Excellence Trust Fund	
2. Endowment Program	20,000,000
The total amount is appropriated in fiscal year 2000-2001.	
Endowment Fund subtotal	120,000,000

6. To the extent that the available General Fund Surplus in fiscal year 1999-2000 exceeds the total component fund amounts allocated to fiscal year 2000-2001, then the additional available General Fund Surplus amount is appropriated for fiscal year 2001-2002 allocation to the component priorities.

Notwithstanding KRS 48.140 and the provisions of Part X 1. to 5. above, if the total undesignated fund balance in the General Fund in fiscal year 1999-2000 and 2000-2001 respectively exceeds the total combined General Fund Surplus Plan appropriation amount, there is appropriated in fiscal year 2001-2002 to the Budget Reserve Trust Fund an amount that enables the Budget Reserve Trust Fund to contain a fund balance up to five percent (5%) of the actual General Fund revenue in fiscal year 2000-2001 which is an additional $109,921,600.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as anticipated by the 1998 Regular Session of the General Assembly in House Bill 321, Part III, item 29. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 40 Settling States which provides reimbursement to states for smoking related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year. The Commonwealth has already received the first such payment from which no funds have been expended pursuant to the policy set forth by the 1998 General Assembly.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, and previously settled states adjustments.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement funds shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement funds that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 1999-2000 is $137,800,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

5. From the estimated $137,800,000 in fiscal year 1999-2000 the General Assembly directs the following:

a. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is credited in fiscal year 1999-2000 to the General Fund Surplus Account.

(1) Eighty-three and thirty-three hundredths percent (83.33%) of this amount shall be dedicated to the Endowment Program of the Research Challenge Trust Fund of the Council on Postsecondary Education as specified in Part IX of this Act.

(2) Sixteen and sixty-seven hundredths percent (16.67%) of this amount shall be dedicated to the Endowment Program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education as specified in Part X of this Act.

b. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is appropriated in fiscal year 2000-2001 to the Governor's Office to be reserved in a new Kentucky Agricultural Development Fund attached to the Governor's Office for Agriculture Policy to be used for agricultural development initiatives pursuant to enabling legislation to be considered by the 2000 General Assembly.

(1) Of this amount, $40,000,000 shall be designated and reserved to ensure that recipients of payments from the National Tobacco Grower Settlement Trust (Phase II Settlement) in calendar years 2000 and 2001 are compensated at a level not less than the compensation received from the Phase II Settlement in calendar year 1999. These funds shall be made available to supplement Phase II Settlement payments and shall be distributed according to formulas established by the Kentucky Tobacco Settlement Trust Corporation for distribution of Phase II settlement amounts. Any funds not expended for this purpose by May 1, 2002, shall be disbursed pursuant to action by the Kentucky Agriculture Development Board which is proposed to be established by enabling legislation.

(2) Of this amount, $28,900,000 shall be designated for use by the Kentucky Agricultural Development Board for the purpose of developing regional processing and marketing facilities for agricultural commodities other than tobacco in the state's two most tobacco-dependent regions, as determined by the Kentucky Agriculture Development Fund Board. Funds shall be made available for feasibility studies, capital construction, operations, and reasonable administrative costs associated with the development of these two facilities.

6. It is estimated that MSA Phase I Tobacco Settlement Funds amounting to $101,100,000 in fiscal year 2000-2001 and $121,600,000 in fiscal year 2001-2002 will be received and available for appropriation.

a. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Early Childhood Development Fund which is proposed to be established by enabling legislation in the Governor's Office for Early Childhood Development to be used for early childhood development initiatives. The Fund will be administered by a board to be established by enabling legislation. Appropriations for early childhood initiatives are set out within the appropriation amounts of the recipient agencies in Part I of this Act and are subject to the approval of the board. The recipient agencies include the Office of the Inspector General, the Department for Public Health and the Commission for Children with Special Health Care Needs in the Cabinet for Health Services, the Department for Community Based Services in the Cabinet for Families and Children, the Kentucky Higher Education Assistance Authority, and the Governor's Office for Early Childhood Development within the Office of the Governor.

b. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Kentucky Health Care Improvement Fund which is proposed to be established by enabling legislation in the Department of Insurance to be used for health care initiatives. The Fund will be administered by a board to be legislatively established.

(1) Of these amounts, twenty percent (20%), estimated to be $5,055,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002, shall be dedicated to a lung cancer research program. The appropriation for this initiative is contained within the appropriation amount for the Council on Postsecondary Education in Part I of the Act and is subject to approval by the board.

(2) Of these amounts, ten percent (10%), estimated to be $2,527,500 in fiscal year 2000-2001 and $3,040,000 in fiscal year 2001-2002, shall be dedicated to a smoking prevention program to be administered by the Department for Public Health in the Cabinet for Health Services. The appropriation for this initiative is contained within the appropriation amount for the Department for Public Health in the Cabinet for Health Services in Part I of the Act and is subject to approval by the board.

(3) Of these amounts, seventy percent (70%), estimated to be $17,692,500 in fiscal year 2000-2001 and $21,280,000 in fiscal year 2001-2002, shall be dedicated to a health insurance program for high cost individuals to be administered by the Department of Insurance in the Public Protection Cabinet. The appropriation for this initiative is contained within the appropriation amount for the Department of Insurance in the Public Protection Cabinet in Part I of the Act and is subject to approval by the board.

c. Fifty Percent (50%) of the MSA payments received in fiscal year 2000-2001, estimated to be $50,550,000, and in fiscal year 2001-2002, estimated to be $60,800,000, is appropriated to the Kentucky Agricultural Improvement Fund which is proposed to be established in enabling legislation in the Governor's Office for Agriculture Policy to be used for agricultural development initiatives. The Fund will be administered by a board to be legislatively established.

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1999-2000	2000-2001	2001-2002
General Fund $10,912,900	$6,817,541,200	$7,123,539,200	
Restricted Funds	22,583,200	3,103,535,100	3,190,947,300
Federal Funds 471,600	4,952,851,700	5,096,741,500	
Road Fund		1,209,014,800	1,324,330,600
Subtotal	$33,967,700	$16,082,942,800	$16,735,558,600

CAPITAL PROJECTS BUDGET

	1999-2000	2000-2001	2001-2002

General Fund $200,000	$10,046,000		
Restricted Funds	210,000	753,535,300	$68,933,600
Federal Funds	17,934,600	2,250,500	
Bond Funds	682,900,000		
Road Fund		10,050,000	7,814,000
Agency Bonds	42,000,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		25,306,000	18,040,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
Subtotal	2,620,000	1,728,680,900	104,502,100

TOTAL-STATE/EXECUTIVE BUDGET

	1999-2000	2000-2001	2001-2002
General Fund $11,112,900	$6,827,587,200	$7,123,539,200	
Restricted Funds	22,793,200	3,857,070,400	3,259,880,900
Federal Funds 471,600	4,970,786,300	5,098,992,000	
Road Fund		1,219,064,800	1,332,144,600
Bond Funds	682,900,000		
Agency Bonds	42,000,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		25,306,000	18,040,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
TOTAL FUNDS	$36,587,700	$17,811,623,700	$16,840,060,700

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

PART XIII

REVENUE MEASURES

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Part and KRS 136.073, 136.076, and 136.078:

(1) "Book value" means the value shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(2) "Business entity" means a:

  (a) Formally incorporated entity;

  (b) Domestic limited liability company as defined in KRS 275.015 or a foreign limited liability company as defined in KRS 275.015; or

  (c) Registered limited liability partnership as defined in KRS 362.155(7).

(3) "Cabinet" means the Revenue Cabinet;

(4) "Capital" means the total book value of capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed money or partner's or member's capital accounts;

(5) "Consolidated return" means a business entity license tax return filed by a qualifying business entity with all related business entities in accordance with subsection (1)(b) of Section 3 of this Part in which the business entities are treated as a single business entity for purpose of determining and reporting capital, taxable capital, and credits;

(6) "Doing business in this state" means:

  (a) Organized under the laws of this state;

  (b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services within this state;

(e) Deriving income from or attributable to sources within this state; or

(f) Directing activities at Kentucky customers for purposes of selling them goods and services;

(7) "Individual" means a natural person;

(8) "Ownership interest" means any unit into which the proprietary interest in a limited liability company or a limited liability company is divided;

(9) "Qualifying business entity" means any business entity subject to tax in accordance with subsection (1) of Section 2 of this Part that directly owns stock, securities, or an ownership interest of other business entities, the total book value of which is equal to or greater than fifty percent (50%) of the book value of the qualifying business entity's total assets;

(10) "Related business entity" means any business entity other than a business entity exempted by paragraphs (a) to (h) of subsection (1) of Section 2 of this Part in which the qualifying entity directly or indirectly owns more than fifty percent (50%) of the outstanding stock or ownership interest;

(11) "Security" means any note, bond, debenture, or evidence of indebtedness;

(12) "Separate return" means a business entity license tax return filed by a single business entity for purposes of determining and reporting capital, taxable capital, tax liability, and credits;

(13) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(14) "Stock" means any share of stock, certificate of stock, or other unit into which the proprietary interest in a corporation is divided;

(15) "Taxable in another state" means, for the purpose of allocation and apportionment of capital under subsection (3) of Section 2 of this Part, a business entity required, in any state other than Kentucky, to file a return for or pay a net income tax, a franchise tax for the privilege of doing business, or a corporate stock tax; and

(16) "Taxable year" means the period for which a return is required to be filed for federal income tax purposes.

Section 2. KRS 136.070 is amended to read as follows:

(1) Every ***business entity doing business in this state***~~[corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state]~~, except ***those business entities listed in paragraphs (a) to (h) of this subsection***~~[financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit,]~~ shall pay to the state an annual ***business entity*** license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of ***taxable***~~[the]~~ capital~~[employed in the business]~~ as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section. ***The following business entities are not subject to the tax imposed by this subsection:***

(a) Financial institutions as defined in KRS 136.500;

(b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(c) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;

(d) Production credit associations;

(e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers, and reciprocal underwriters;

(f) Public service companies subject to taxation under Section 86 of this Part;

(g) Those corporations exempted by Section 501 of the Internal Revenue Code, or any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

(h) Companies principally engaged in the provision of communication services. For the purposes of this section, "companies principally engaged in the provision of communications services" means any company that derives

more than fifty percent (50%) of its gross receipts from the provision of communications services as defined by Section 56 of this Part.

(2) (a) ***Taxable capital, in the case of business entities taxable only in this state, means capital as defined in Section 1 of this Part***~~[The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year]~~;

(b) "Capital employed," in the case of ***business entities taxable in this state and taxable in another state means capital as defined in Section 1 of this Part***~~[corporations having property or payroll only in this state, means "capital" as defined above;~~

~~(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section;~~

~~(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction]~~.

(3) ***Capital***~~[The total capital, as determined under subsection (2) of this section,]~~ shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the ***business entity's***~~[taxpayer's]~~ real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; ***but***~~[provided, however, that]~~ property ***that***~~[which]~~ has been certified as a pollution control facility as defined in KRS 224.01-300***, property that has been certified as an alcohol production facility as defined in KRS 247.910, and property that has been certified as fluidized bed energy production facility as defined in KRS 211.390*** shall be excluded from the property factor:

1. Property owned by the ***business entity***~~[taxpayer]~~ is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the cabinet under ***administrative*** regulations promulgated by the cabinet. Property rented by the ***business entity***~~[taxpayer]~~ is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the ***business***~~[taxpayer]~~ less any annual rental rate received by the ***business entity***~~[taxpayer]~~ from subrentals, ***if***~~[provided that]~~ such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply such rental rate as will reasonably reflect the value of the property rented by the ***business entity***~~[taxpayer]~~; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the ***business entity's***~~[taxpayer's]~~ property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the ***business entity***~~[taxpayer]~~ for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the ***business entity***~~[taxpayer]~~ in this state during the tax period, and the denominator of which is the total sales of the ***business entity***~~[taxpayer]~~ everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the

designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the ***business entity's***[~~taxpayer's~~] capital in this state, the ***business entity***[~~taxpayer~~] may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the ***business entity's***[~~taxpayer's~~] capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the ***business entity's***[~~taxpayer's~~] capital.

(5) No ***business entity subject to taxation***[~~corporation required to pay an annual license tax~~] under this section shall pay less than thirty dollars ($30) ***for each taxable year***.

(6) Every ***business entity***[~~corporation~~] with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of ***taxable*** capital[~~ employed in the business,~~] as computed under the provisions of KRS 136.070(2)[~~ and (3)~~].

Section 3. KRS 136.071 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, a ***qualifying business entity***[~~corporation whose commercial domicile is in this state and holds directly or indirectly stock or securities in other corporations equal to or greater than fifty percent (50%) of its total assets may, at the option of the taxpayer, be considered as one (1) corporation for purposes of determining and apportioning total "capital," or compute its "capital" under KRS 136.070(2) as follows~~]:

(a) ***File a separate return and deduct from capital the book value of its investment in the stock, ownership interest, or securities in any business entity in which it directly owns more than fifty percent (50%) of the outstanding stock or ownership interest; or***[~~Determine the corporation's total capital as provided in KRS 136.070(2).~~]

(b) ***File a consolidated return with all related business entities***[~~Deduct from the amount determined in subsection (a) of this section, the book value of its investment in the stock and securities of any corporation in which it owns more than fifty percent (50%) of the outstanding stock of such corporation~~].

(2) ***All transactions between business entities included in the consolidated return shall be eliminated in computing capital, taxable capital, and the property, payroll, and sales factors in accordance with subsection (5) of Section 1 of this Part and with subsections (2) and (3) of Section 2 of this Part, respectively***[~~For purposes of determining the ratio of stock and securities to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year~~].

(3) Every business entity included as a member of a group of related business entities filing a consolidated return shall be jointly and severally liable for the consolidated business entity's license tax liability, except that any business entity that was not a member of the group for the entire taxable year shall be jointly and severally liable only for that portion of the consolidated business entity tax liability attributable to that portion of the year that the business entity was a member of the group.

Section 4. KRS 136.090 is amended to read as follows:

(1) ***(a) Every business entity subject to tax under Section 2 of this Part***[~~Corporations liable to taxation under KRS 136.070~~] shall ***for each taxable year, file a separate return unless the business entity was, for the taxable year, a member of a group of related business entities filing a consolidated return in accordance with subsection (1) of Section 3 of this Part.***

(b) Every return shall be submitted on form prescribed by the cabinet and shall be signed by the managing partner or member, president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer of the business entity[~~file with the Revenue Cabinet each year, on forms prepared by the cabinet, a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or~~

~~attorney upon whom process may be executed in this state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged~~].

(2) ***Every return shall state:***

(a) The name of the business entity;

(b) The name of the state or government under the laws of which it is organized;

(c) The date of organization;

(d) The place of its principal office in and out of this state;

(e) The name and address of its president, managing partner or member, and secretary;

(f) The name and address of the officer, managing partner or member, or agent in charge of its business in this state;

(g) The name and kind of business in which it is engaged; and

(h) Other facts as the cabinet may require[~~The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the cabinet requires~~].

Section 5. KRS 136.100 is amended to read as follows:

(1) If the ***business entity's taxable year is***[~~corporation operates~~] on a calendar year basis, the ***return***[~~reports~~] required under KRS 136.090 shall be filed on or before April 15 ***of***[~~in~~] each year. If the ***business entity's taxable year is***[~~corporation operates on~~] a fiscal year[~~ basis~~], the ***return***[~~reports~~] shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The ***return***[~~reports~~] shall cover operations for the preceding calendar or fiscal year, as the case may be.[~~ Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the Revenue Cabinet on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.~~]

(2) ***(a) Capital on any return made for a period of less than one (1) year shall be calculated in the same manner as on a return made for a twelve (12) month period.***

(b) If any return is made by a business entity for a period of less than one (1) year, the tax liability after application of the credit authorized in subsection (6) of Section 2 of this Part shall be multiplied by a fraction:

1. The numerator of which is the number of days in the period; and

2. The denominator of which is three hundred sixty-five (365)[~~A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the cabinet. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period~~].

(3) In any case where two (2) or more ***business entities***[~~corporations~~] merge, consolidate, or otherwise combine into a single ***business entity***[~~corporation~~] after the close of the taxable year, but before the beginning of the succeeding taxable year, ***capital, taxable capital, and the property, payroll, and sales factors of the single business entity***[~~all factors used to determine the corporation license tax assessment~~] shall be computed on the basis of the consolidated accounting records of ***the business entities***[~~such corporations~~].

Section 6. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1999***[~~1997~~], exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ***1999***[~~1997~~], that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain; and

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement;

(11) *(a)* "Net income" ***for taxable years beginning before January 1, 2001,*** in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

1.[~~(a)~~] Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

2.[~~(b)~~] Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

3.[~~(c)~~] The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

4.[~~(d)~~] Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(b) "Net income" for taxable years beginning after December 31, 2000, in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the personal exemption allowed by Section 99 of this Part, minus the standard deduction allowed by subsection (4) of Section 13 of this Part or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, except those listed below, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

1. Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income;

2. Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

3. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes that restricts membership to persons

of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

4. Notwithstanding any provision of this chapter to the contrary, any deduction for an amount allocable to income excluded by subsection (10) of this section;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations ***taxable***~~[having property or payroll]~~ only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations ***taxable in***~~[having property or payroll both within and without]~~ this state ***and taxable in another state*** means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) ***For purposes of allocation and apportionment of net income in accordance with Section 89 of this Part, a corporation is taxable in another state if the corporation is required in any state other than Kentucky to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax***~~["Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction]~~;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections***;***

(26) "Doing business in this state" means

(a) Organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services within this state;

(e) Maintaining an interest in a partnership or limited liability company doing business in this state;

(f) Deriving income directly or indirectly from a trust doing business in this state;

(g) Deriving income from or attributable to sources within this state; or

(h) Directing activities at Kentucky customers for purposes of selling them goods and services;

(27) "Resident estate" means the estate of a deceased person who was domiciled in Kentucky at the date of death;

(28) "Resident trust" means a trust, except a grantor trust, that either:

(a) Was created by a will of a decedent who at death was domiciled in the state; or

(b) Is an irrevocable trust, the grantor of which was domiciled in this state at the time the trust became irrevocable. For purposes of this subsection, a trust is considered irrevocable to the extent the grantor is not treated as the owner thereof under Sections 671 to 678 of the Internal Revenue Code. The term "grantor type trust" means a trust where the income or gains of the trust are taxable to the grantor or others treated as substantial owners under Sections 671 to 678 of the Internal Revenue Code;

(29) "Nonresident estate or trust" means any estate or trust other than a resident estate or trust;

(30) "Alternative adjusted gross income" means gross income as defined by Section 61 of the Internal Revenue Code minus the deductions allowed to individuals by Section 62 of the Internal Revenue Code with the following adjustments:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Include interest income derived from obligations of sister states and political subdivisions thereof;

(c) Exclude any state income tax refund include as income on the federal tax return;

(d) Exclude charitable contributions. For the purpose of this subsection, "charitable contributions" means amounts deductible under Section 170 of the Internal Revenue Code subject to the overall limitations on itemized deductions under Section 68 of the Internal Revenue Code; and

(e) Exclude income attributable to an economic development project under KRS Chapter 154 as provided in Sections 19, 20, 21, and 22 of this Part, and KRS 154.12-2088; and

(31) "Alternative tax exemption amount" means:

(a) Forty thousand dollars ($40,000) for single taxpayers;

(b) Fifty thousand dollars ($50,000) for head of house taxpayers;

(c) Sixty thousand dollars ($60,000) for married filing jointly taxpayers; and

(d) Thirty thousand dollars ($30,000) for married filing separately taxpayers.

Section 7. KRS 141.040 is amended to read as follows:

(1) Every corporation ***doing business in this state***[~~organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state~~], except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections ***(3), (4), and (5)***[~~(2), (3), and (4)~~] of this section:

(a) S corporations;

(b) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(g) Corporations exempt under Section 501 of the Internal Revenue Code; ***and***

(h) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit.[~~; and~~]

(2)[~~(i)~~] ***For purpose of subsection (1) of this section, corporations shall not be considered as doing business in this state if the only activity within the state is having property in this state***[~~Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is~~] located at the premises of a printer with which it has contracted for printing, if ***the***[~~such~~] property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the ***final*** printed product is produced.

(3)[~~(2)~~]For tax years ending before January 1, 1990, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4)[~~(3)~~]For tax years beginning after December 31, 1989, the following rates shall apply:

(a) Four percent (4%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(5)[~~(4)~~]For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection ***(3)***[~~(2)~~] of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection ***(4)***[~~(3)~~] of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(6)[~~(5)~~]Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000);

In no event shall the tax levied by this subsection apply if Section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

Section 8. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation ***doing business***[~~owning property or engaging in business~~] in ***this state***[~~Kentucky~~], shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the cabinet.

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations ***doing***[~~carrying on a~~] business ***in this state*** as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in ***subsection (6) of Section 7 of this Part***[~~KRS 141.040(5)~~].

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the cabinet.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~carrying on~~] business only in Kentucky are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation ***doing***[~~which does~~] business within and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

(a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not ***do***[~~carry on~~] business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

Section 9. KRS 141.016 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2001:***

(a) If the federal adjusted gross income of husband or wife is entered on a separate federal return, their Kentucky adjusted gross incomes may be entered on their separate Kentucky tax returns or their joint Kentucky tax return as they so elect.

(b)[~~(2)~~]If the federal adjusted gross income of husband and wife is entered on a joint federal return, or if neither files a federal return:

1.[~~(a)~~] Their adjusted gross income shall be entered on their joint Kentucky tax return; or

2.[~~(b)~~] Separate adjusted gross incomes may be entered on their separate Kentucky tax returns if they so elect.

(c)[~~(3)~~]Where husband and wife have not separately reported and claimed items of income and adjustments of income for federal income tax purposes, and have not elected to file a joint Kentucky income tax return, such items allowable for Kentucky income tax purposes shall be allocated and adjusted as follows:

1.[~~(a)~~] Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable;

2.[~~(b)~~] Allowable deductions with respect to trade, business, or production of income shall be allocated to the spouse to whom attributable.

(2) For taxable years beginning after December 31, 2000, the filing status that is applicable under Section 1 of the Internal Revenue Code shall be the filing status for Kentucky income tax returns.

Section 10. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter.[~~ The tax shall be determined by applying the rates in subsection (2) to net income and subtracting allowable tax credits provided in subsection (3).~~]

(2) ***(a) For tax years beginning before January 1, 2001, the tax shall be determined by applying the rate to net income and subtracting allowable tax credits provided in subsection (3) of this section.*** The following rates shall be applied to net income:

1.[~~(a)~~] Two percent (2%) of the amount of net income not exceeding three thousand dollars ($3,000);

2.[~~(b)~~] Three percent (3%) of the amount of net income in excess of three thousand dollars ($3,000) but not in excess of four thousand dollars ($4,000);

3.[~~(c)~~] Four percent (4%) of the amount of net income in excess of four thousand dollars ($4,000) but not in excess of five thousand dollars ($5,000);

4.[~~(d)~~] Five percent (5%) of the amount of net income in excess of five thousand dollars ($5,000) but not in excess of eight thousand dollars ($8,000);

5.[~~(e)~~] Six percent (6%) of the amount of net income in excess of eight thousand dollars ($8,000).

(b) For tax years beginning after December 31, 2000, the tax rate shall be six percent (6%) of the amount of net income.

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2)*(a)* to arrive at the annual tax:

(a) Twenty dollars ($20) for an unmarried individual;

(b) Twenty dollars ($20) for a married individual filing a separate return and an additional twenty dollars ($20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars ($40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;

(c) Twenty dollars ($20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;

(d) An additional forty dollars ($40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

(e) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(f) An additional forty dollars ($40) credit if the taxpayer is blind at the close of the taxable year;

(g) An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to his adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to his tax credit(s), excluding credits for a spouse and dependents, or
2. Prorating his tax credit(s) plus the tax credits for his spouse and dependents by the ratio of his Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and his spouse;

(i) In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be that portion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection, to his adjusted gross income as defined in Section 62 of the Internal Revenue Code;

(j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars ($2);

(k) In the case of an estate, the allowable tax credit shall be twenty dollars ($20);

(l) An additional twenty dollars ($20) credit if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as~~[herein]~~ provided ***in this subsection***, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

(6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing such residence and as prescribed in subsection (1) of this section following the establishment of such residence.

(7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that he is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when he is a nonresident.

(8) For taxable years beginning after December 31, 2000, nonresident individuals, as prescribed in subsection (4) of this section, and part-year residents as prescribed in subsection (6) and (7) of this section, shall compute the tax imposed by this Chapter in the same manner as resident individuals, as provided in subsection (2)(b) of this section and Section 11 of this Part, on their entire income from all sources within and without this state and apportion the amount so computed by the following ratio:

(a) Federal adjusted gross income, exclusive of all state income tax refunds, from sources within in this state; over

(b) Federal adjusted gross income, exclusive of all state income tax refunds, from sources both within and without this state.

Section 11. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 ***and Section 17 of this Part,*** or ***KRS*** 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 ***and Section 17 of this Part*** shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3) ***for taxable years beginning before January 1, 2001***;

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066 ***for taxable years beginning before January 1, 2001***; and

(i) The household and dependent care credit permitted by KRS 141.067.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 ***and Section 17 of this Part*** shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090; and

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 12. KRS 141.066 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2001,*** a resident individual whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.

(2) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be deductible from their joint tax liability. For a husband and wife living together, whether filing separate returns or separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed adjusted gross income of less than zero shall be treated as zero, and shall be deductible from their combined tax liability.

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

Section 13. KRS 141.081 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2001,*** an individual, at his election, may deduct from his adjusted gross income a standard deduction of:

(a) Six hundred and fifty dollars ($650) for taxable years beginning before December 31, 1996;

(b) Nine hundred dollars ($900) for taxable years beginning after December 31, 1996, but before December 31, 1997;

(c) One thousand two hundred dollars ($1,200) for taxable years beginning after December 31, 1997, but before December 31, 1998;

(d) One thousand five hundred dollars ($1,500) for taxable years beginning after December 31, 1998, but before December 31, 1999; ***and***

(e) One thousand seven hundred dollars ($1,700) for taxable years beginning after December 31, 1999, but before December 31, 2000[~~; and~~

~~(f) The amount calculated under subsection (2) of this section for taxable years beginning after December 31, 2000~~].

(2)[~~(a) For taxable years beginning after December 31, 2000, and each taxable year thereafter, the standard deduction for the current taxable year shall be equal to the standard deduction for the prior taxable year multiplied by the greater of:~~

~~1. The average of the monthly CPI-U figures for the twelve (12) consecutive months ending in and including the July six (6) months prior to the January beginning the current tax year, divided by the average of the monthly CPI-U figures for the twelve (12) months ending in and including the July eighteen (18) months~~

~~prior to the January beginning the current tax year; or~~

~~2. One (1).~~

~~(b) As used in this subsection, a tax year shall be the twelve (12) month period beginning in January and ending in December.~~

~~(c) As used in this subsection, "CPI-U" means the nonseasonally adjusted United States city average of the Consumer Price Index for all urban consumers for all items, as released by the federal Bureau of Labor Statistics.~~

~~(3)~~] The standard deduction provided for in ***subsection (1) of*** this section shall be in lieu of all deductions and shall not be allowed in the case of a taxable year of less than twelve (12) months on account of a change in the accounting period or in the case of a fiduciary.

(3)[~~(4)~~]In the case of a husband and wife living together, the standard deduction provided for in ***subsection (1) of*** this section shall not be allowed to either if the net income of one (1) of the spouses is determined without regard to the standard deduction. The determination of marital status shall be made in the manner prescribed in Section 153 of the Internal Revenue Code.

(4) For taxable years beginning after December 31, 2000, an individual other than a fiduciary may elect to deduct from adjusted gross income the standard deduction determined by the federal filing status under subsection (2) of Section 9 of this Part in an amount equal to the standard deduction permitted by Section 63(c) of the Internal Revenue Code.

Section 14. KRS 141.180 is amended to read as follows:

(1) ***For taxable years beginning before January 1, 2001,*** every individual, except as otherwise provided in ***subsections (2) to (6) of*** this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) ***For taxable years beginning before January 1, 2001,*** any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) ***For taxable years beginning before January 1, 2001,*** any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(4) ***For taxable years beginning before January 1, 2001,*** notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(5) ***For taxable years beginning before January 1, 2001,*** any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(6) ***For taxable years beginning before January 1, 2001,*** a husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section ***6015***[~~6013(e)~~] of the Internal Revenue Code; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section ***6015***[~~6013(e)~~] of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability.

(8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this section shall not result in a tax overpayment to the spouse requesting relief.

(9) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

(10) For tax years beginning after December 31, 2000, every individual required by the Internal Revenue Code to file a federal income tax return shall make a return stating specifically the items claimed as income, deductions, and tax credits allowed by this chapter.

Section 15. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year

if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to ***result in an***~~[exceed five thousand dollars ($5,000) for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180. No declaration of estimated tax shall be required if the]~~ estimated tax liability ***of***~~[can reasonably be expected to be]~~ five hundred dollars ($500) or ***more***~~[less]~~.

(2) In the declaration required under subsection (1), the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 ***and Section 17 of this Part,*** for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310, 141.315, and 141.065;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year; and

(d) Other information as may be prescribed in administrative regulations promulgated by the cabinet.

(3) The declaration required under subsection (1) shall be filed with the cabinet on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(4) An individual may amend a declaration filed during the taxable year under subsection (3) pursuant to administrative regulations prescribed by the cabinet.

(5) If, on or before January 31 of the succeeding taxable year an individual files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable, then, under administrative regulations prescribed by the cabinet:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15 of the taxable year, the return shall, for the purposes of this section, be considered as the declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, the return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before January 15 of the taxable year.

(6) The cabinet shall promulgate administrative regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of an individual who is abroad, no extension shall be for more than six (6) months.

(7) If an individual is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator, or other person charged with the care of the person or property of the individual.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 16. KRS 141.325 is amended to read as follows:

(1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) ***For taxable years beginning before January 1, 2001,*** one (1) exemption for himself;

(b) ***For taxable years beginning before January 1, 2001,*** one (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(c);

(c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;

(d) ***For taxable years beginning after December 31, 2000, any***~~[Such]~~ other withholding exemptions as the cabinet may prescribe by ***the promulgation of an administrative*** regulation.

(2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the cabinet may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the cabinet may by regulations prescribe.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) For taxable years beginning after December 31, 2000, in the case of taxpayers other than corporations, there shall be imposed an alternative tax equal to:

(a) The tentative alternative tax determined in subsection (2) of this section for the taxable year, minus

(b) The tax calculated under Section 10 of this Part after subtracting the household and dependent care service credit permitted under KRS 141.067.

(2) For purposes of this section, the tentative alternative tax shall be six percent (6%) of the alternative adjusted gross income, after deducting the alternative tax exemption amount, as it may be adjusted by subsection (3) of this section.

(3) The alternative tax exemption amount shall be reduced at a rate of two percent (2%) for each two thousand dollar ($2,000) increment, or any fraction thereof, by which the alternative adjusted gross income exceeds:

(a) Fifty thousand dollars ($50,000) for single taxpayers;

(b) Sixty thousand dollars ($60,000) for head of household taxpayers;

(c) Seventy thousand dollars ($70,000) for married filing jointly taxpayers; and

(d) Thirty five thousand dollars ($35,000) for married filing separately taxpayers.

Section 18. KRS 141.068 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in KRS 154.20-253;

(c) "Investment fund" has the same meaning as set forth in KRS 154.20-253;

(d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-253; and

(e) "Tax credit" means the credits provided for in KRS 154.20-263.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-259(6) against the income tax due computed as provided by KRS 141.020***, Section 17 of this Part,*** or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-263.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under KRS 154.20-259(6) shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the

amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of KRS 154.20-263.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under KRS 154.20-259(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-263.

(5) The Revenue Cabinet shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by KRS 154.20-263.

Section 19. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 ***and alternative tax computed under Section 17 of this Part***, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020[~~ or 141.040,~~] on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***[~~or~~] taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020[~~ or 141.040,~~] on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***[~~or~~] taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the

gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 20. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 ***and alternative tax computed under Section 17 of this Part***, a corporation subject to tax under KRS 141.040(1), or a limited liability company

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020~~[or 141.040,]~~ on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***~~[, or]~~ taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020~~[or 141.040,]~~ on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***~~[or]~~ taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, trust, or limited liability company treated as a partnership for federal income tax purposes shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's,

member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 21. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:
  (a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;
  (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;
  (c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 ***and alternative tax computed under Section 17 of this Part***, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:
  (a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020~~[or 141.040]~~ on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***~~[or]~~ taxable net income as defined by KRS 141.010(14), including income from an economic revitalization project;
  (b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020~~[or 141.040]~~ on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***~~[or]~~ taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and
  (c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2).
  (b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.
  (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.
  (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.
  (e) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited

liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 22. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 ***and the alternative tax computed under Section 17 of this Part***, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020[~~ or 141.040~~] on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***[~~, or~~] taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020[~~ or 141.040~~] on net income as defined by KRS 141.010(11) ***plus the alternative tax computed under Section 17 of this Part, or as provided by Section 7 of this Part on***[~~, or~~] taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(4) (a) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2).

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(d) If the tax computed ***in this subsection***[~~herein~~] exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 23. KRS 154.12-2086 is amended to read as follows:

(1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084 to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS 141.020 ***and the alternative tax computed under Section 17 of this Part,*** or ***by KRS*** 141.040, to an approved company. The amount of the skills training investment credit awarded by the Bluegrass State Skills Corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars ($500) per employee and, in the aggregate, not to exceed one hundred thousand dollars ($100,000) for each approved company per biennium. The Bluegrass State Skills Corporation shall only approve one (1) application per biennium for each qualified company.

(2) The skills training investment credit shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042. The skill training investment credits allowed under KRS 154.12-2084 to 154.12-2089 shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The skills training investment credits provided for in this section shall be in addition to all other tax credits granted under the laws of the Commonwealth.

(3) The skills training investment credits may be carried forward for three (3) successive fiscal years of the approved company if the amount allowable as credits exceeds the income tax liability of the approved company in that tax year; however, thereafter, if the amount allowable as credits exceeds the income tax liability of the approved company, the excess credits shall not be refundable or carried forward to any other fiscal year of the approved company for which a tax return of the approved company is to be filed.

(4) A qualified company shall not be entitled to receive the skills training investment credits if the qualified company requires that the employee reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.

(5) To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills training investment credits under KRS 154.12-2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to 154.12-208 or the Local Government Economic Development Program under the provisions of KRS 42.4588 to 42.4595.

(6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be given to qualified companies that the Bluegrass State Skills Corporation determines to be high performance companies. A minimum of thirty percent (30%) of the total skills training investment credits authorized by the Bluegrass State Skills Corporation during any fiscal year shall

be awarded to qualified companies that have been designated as high performance companies by the Bluegrass State Skills Corporation. The Bluegrass State Skills Corporation shall establish guidelines and standards for the designation of high performance companies.

(7) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the Bluegrass State Skills Corporation the Kentucky income tax liability for the preceding fiscal year of the approved company for which the return was filed, and the amount of any skills training investment credits taken pursuant to KRS 154.12-2084 to 154.12-2089.

Section 24. KRS 154.20-263 is amended to read as follows:

(1) An investor shall be entitled to a nonrefundable credit against the income tax imposed by KRS 141.020 ***and the alternative tax computed under Section 17 of this Part,*** or ***by KRS*** 141.040, or the corporation license tax imposed by 136.070 in any tax year after December 31, 1998, during which a cash contribution to a certified investment fund is made. The aggregate tax credit amount available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to an investment fund. The aggregate tax credit amount available to each investor shall be certified by the authority as provided in KRS 154.20-259(6).

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed twenty-five percent (25%) of the initial aggregate credit amount certified by the authority as available to the investor.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section exceeds the investor's combined income tax and corporate license tax liabilities for that year, the investor may carry the excess tax credit forward until the tax credit is used, provided that the carry forward of any excess tax credit shall not increase the twenty-five percent (25%) limitation established by subsection (2) of this section, and provided further that any tax credits not used within fifteen (15) years of the initial certification by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, or any other additions to the investor's tax liability.

(5) The tax credits allowed by this section are not transferable.

SECTION 25. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The following personal property shall be exempt from ad valorem taxation:

- ***(a) Farm implement and farm machinery owned by or leased to a person actually engaged in farming and used in the farm operations;***
- ***(b) Livestock, ratite birds, and domestic fowl;***
- ***(c) Crops in the hands of the producer;***
- ***(d) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec 81;***
- ***(e) Property that has been certified as an alcohol production facility as defined in KRS 247.910; and***
- ***(f) Property that has been certified as a fluidized bed energy production facility as defined in KRS 211.390.***

(2) The following personal property shall be exempt from ad valorem taxation for state purposes only:

- ***(a) Tobacco in storage and other unmanufactured agricultural products, to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof;***
- ***(b) Aircraft not used in the business of transporting persons or property for compensation or hire; and***
- ***(c) Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.***

(3) Motor vehicles assessed under KRS 132.485 and motorboats assessed under KRS 132.488 shall be exempt from state ad valorem taxes beginning with the January 1, 2003 assessment date and shall be assessed for state purposes at:

- ***(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and***
- ***(b) Fifteen cents ($0.015) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.***

Section 26. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes ***shall be paid by the owner or person assessed, except as provided in this section and KRS 132.030, 132.050, Section 28 of this Part, 136.300, 136.320, and other sections providing a different tax rate for particular property, for the following types of property:***~~[of]~~

- ***(a)*** Thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing***;***~~[, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and]~~

(b) Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section***;***~~[, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81,]~~

(c) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** machinery actually engaged in manufacturing***;***~~[,]~~

(d) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna***;***~~[,]~~

(e) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of all*** property which has been certified as a pollution control facility as defined in KRS 224.01-300***;***~~[, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and]~~

(f) Five cents ($0.05) upon each one hundred dollars ($100) of value upon goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business; and

(g) Forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other ***tangible personal*** property directed to be assessed for taxation~~[shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property]~~.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%)***, exclusive of the assessment resulting from new property as defined in Section 84 of this Part***. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, ***exclusive of revenue from new property as defined in Section 84 of this Part,*** the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10)[~~ Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.~~

~~(11)~~] An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

[~~(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.~~

~~(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.~~]

Section 27. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, unless exempted by the Constitution ***or personal property exempted by statute***, shall be as follows:

- (a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state[~~, except that twenty-five (25) domestic fowl to each family shall be exempt from taxation for any purpose~~].
- (b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise canceled or revoked.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his

actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of financial institutions provided in KRS 136.505; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Section 28. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1)[~~ Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;~~

~~(2) Livestock, ratite birds, and domestic fowl;~~

~~(3)~~] Capital stock of savings and loan associations;

(2)[~~(4)~~]Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;

(3)[~~(5)~~]Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(4)[~~(6)~~]Unmanufactured agricultural products[~~. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and~~] except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(5)[~~(7)~~]Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(6)[~~(8)~~]All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(7)[~~(9)~~]Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

[~~(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;~~]

(8)[~~(11)~~] On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

[~~(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;~~]

(9)[~~(13)~~] Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing ***in this section***[~~herein~~] shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

[~~(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;~~]

(10)[~~(15)~~] All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;

(11)[~~(16)~~] Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling

purposes as defined in KRS 139.095;

(12)[~~(17)~~] New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;

(13)[~~(18)~~] New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;

(14)[~~(19)~~] Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs; and

(15)[~~(20)~~] Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs.

Section 29. KRS 132.487 is amended to read as follows:

(1) The cabinet shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes ***and administrative fees*** due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing the registration. The cabinet shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the cabinet on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date. Any district that fails to timely submit the tax rate shall receive the rate in effect for the prior year.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The Transportation Cabinet shall provide access to all records of motor vehicle registrations to the cabinet and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the cabinet, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The cabinet may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the cabinet by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 30. KRS 134.800 is amended to read as follows:

The county clerk shall be collector of all state, county, city, urban-county government, school, and special taxing district ad valorem taxes ***and administrative fees*** on motor vehicles registered by him. The clerk may accept payment of taxes due by any commercially acceptable means including credit cards.

Section 31. KRS 134.805 is amended to read as follows:

(1) The county clerk shall ***collect an administrative fee at the time of the motor vehicle or motorboat registration, of which one-third (1/3) shall be retained by the county clerk and two-thirds (2/3) shall be remitted to the cabinet for the purpose of maintaining the centralized system as provided in Section 29 of this Part and KRS 132.488 on behalf of the local taxing districts that realize revenue from the system. The administrative fee shall be one dollar ($1) per vehicle or motorboat presented for registration on or after the January 1, 2001 assessment date; two dollars ($2) per vehicle or motorboat presented for registration on or after January 1, 2002 assessment date; and three dollars ($3) per vehicle or motorboat presented for registration on or after the January 1, 2003 assessment date and thereafter. Notwithstanding any other provisions of this section, during the phase-in period of calendar years 2001 and 2002, in no case will the amount of administrative fees received by any county clerk be less than the amount of state property tax commission earned in 2000. Any required reconciliation shall be made on the annual settlement with the state required by Section 34 of this Part***[~~be allowed by the Revenue Cabinet, for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected~~].

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner of record of each motor vehicle no later than one (1) month prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner of record as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required ***in this subsection***[~~herein~~] shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 32. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes ***and administrative fees*** shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as[~~ hereinafter~~] provided ***in this section***.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(10) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 33. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county

government, school, and special taxing districts all ad valorem taxes ***and administrative fees*** on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the cabinet for the prompt payment to the state of other state tax moneys collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes ***or administrative fees*** collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum ***as prescribed in KRS 131.183***~~[of such taxes]~~.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes ***and administrative fees*** due for the state, county, city, urban-county government, school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All moneys collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall be reported and deposited with the state, after he has deducted the appropriate commissions due from these collections, and such collections shall be distributed to the proper tax district.

(6) The cabinet shall provide procedures governing receipt and disbursement of all moneys collected under subsections (4) and (5) of this section.

Section 34. KRS 134.820 is amended to read as follows:

(1) Each county clerk shall annually, by January 31 of each year, make a settlement with the state, county, city, urban-county government, school, and special taxing districts for all ad valorem taxes ***and administrative fees*** on motor vehicles collected for the prior tax period. In the event that any county clerk resigns, dies or otherwise vacates his office, a settlement with all districts shall be made within thirty (30) days from the date the office is vacated.

(2) On final settlement, the clerk shall pay the state, county, city, urban-county government, school, or special taxing districts all moneys remaining in his hands to which they are entitled.

Section 35. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;

(2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. "Total consideration given" shall not include:

(a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

(b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

(c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;

(10) "Trade-in allowance" means***:***

(a) The value assigned by the seller of a motor vehicle to a motor vehicle offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given; ***or***

(b) In the absence of an affidavit of total consideration given, the value assigned by the Revenue Cabinet through the use of the automotive reference manual prescribed by the cabinet for the vehicle being traded-in;

(11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(12) "Retail price" of motor vehicles shall be determined as follows:

(a) For new, dealer demonstrator, previous model year motor vehicles and U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles, "retail price" shall be the total consideration given at the time of purchase or at a later date, ***excluding***[~~including~~] any trade-in allowance as attested to in a notarized affidavit. If a notarized affidavit signed by both the buyer and seller is not available to establish total consideration given, "retail price" shall be:

1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges ***excluding any trade-in value***; or

2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds ***excluding any trade-in value***; and

3. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

(c) For used motor vehicles being registered by a new resident for the first time in Kentucky whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the average trade-in value given in the reference manual;

(d) For the older used motor vehicles being registered by a new resident for the first time in Kentucky whose values no longer appear in the automotive reference manual, "retail price" shall be one hundred dollars ($100);

(e)[~~For used motor vehicles previously registered in another state or country that were purchased out-of-state by a Kentucky resident who is registering the vehicle in Kentucky for the first time, "retail price" shall be the total consideration given at the time of purchase or at a later date, including the average trade-in value given in the automotive reference manual prescribed by the Revenue Cabinet for any vehicle given in trade;~~

~~(f)~~] For used motor vehicles[~~ previously registered in Kentucky that are sold in Kentucky,~~] and U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles, "retail price" means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller. The trade-in allowance shall be disclosed in the notarized affidavit signed by the buyer and the seller attesting to the total consideration given. If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet through the use of the automotive reference manual prescribed by the Revenue Cabinet ***excluding any trade-in allowance***;

(f)[~~(g)~~] Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the Revenue Cabinet; and

(g)[~~(h)~~]***For the purposes of establishing "retail price" for used motor vehicles whose values do not appear in the automotive reference manual prescribed by the Revenue Cabinet, and when a notarized affidavit signed by both the buyer and seller is not available, "retail price" shall be determined by the Revenue Cabinet***[~~If a dealer transfers a motor vehicle which he has registered as a loaner motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (c) or (d) of this subsection computed as of the date on which the vehicle is transferred~~]; and

(13) "Loaner motor vehicle" means a motor vehicle owned or registered by a dealer and which is loaned to customers of the service or repair component of the dealership.

Section 36. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

  (a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

  (b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three ***and one-fourth*** percent ***(3.25%)***[~~(3%)~~] of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the Revenue Cabinet may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 37. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(12) The interest of a partner in a motor vehicle when other interests are transferred to him;

(13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;[~~ and~~]

(14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only***; and***

(15) Motor vehicles registered under KRS 186.050(13) and with a declared gross weight of vehicle registration and any towed unit of greater than sixty-two thousand (62,000) pounds or operating under a certificate issued under KRS 281.637.

Section 38. KRS 139.472 is amended to read as follows:

(1) ***(a)*** "Prescription medicine" ***for the purposes of this chapter*** shall mean[~~ and include:~~

~~(a)~~]any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is commonly recognized as a substance or preparation intended for such use which is prescribed for the treatment of a human being by a person authorized to prescribe the medicines and ***is:***

1. Dispensed on prescription by a registered pharmacist in accordance with law; ***or***[~~and~~]

2.[~~(b)~~] ***Administered by the authorized person or an assistant under his or her direction***[~~Medical oxygen when purchased by the patient for private use~~].

(b) "Prescription medicine" shall not include items and supplies required to administer prescription medicines, including, but not limited to, tubing, needles, pumps, swabbing, flushing, IV kits, dressing kits, and gloves.

(2) "Prosthetic devices and physical aids" for the purpose of this ***chapter***[~~section~~] shall mean ***artificial limbs and other artificial devices that are used by a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure and are:***

(a) Prescribed by a licensed physician; or

(b) Individually designed, constructed, or altered[~~and include artificial devices prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics~~].

(3) ***"Physical aids" for purposes of the chapter shall mean:***

(a) Artificial eyes;

(b) Hearing aids;

(c) Crutches;

(d) Walkers;

(e) Hospital beds;

(f) Wheelchairs, and parts and materials required to repair or maintain the wheelchair in usable condition;

(g) Wheelchair lifting devices;

(h) Ostomy care products;

(i) Insulin and diabetic supplies, such as hypodermic syringes, needles, and sugar (urine and blood) testing material;

(j) Medical oxygen; and

(k) Medical oxygen concentrators.

(4) The terms "sale at retail," "retail sale," "use," "storage" and "consumption" as used in this chapter shall not include the sale, use, storage, or consumption of***: (a)*** Prescription medicine***; or***[~~,~~]

(b) Prosthetic devices and physical aids ***when purchased by the individual for his or her private use***.

Section 39. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary ***or any other related entity, representative***, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer, or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;[~~ or~~]

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent ***or representative*** operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer***; or***

(f) Any retailer located outside Kentucky that uses a representative, either full-time or part-time, in Kentucky if the representative performs any activities that help maintain and establish a marketplace for the retailer, including, but not limited, to receiving or exchanging returned tangible personal property sold by the retailer.

Section 40. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) ***The price received for repair and installation labor from entities exempt from the taxes imposed by this chapter under KRS 139.470(1), (7), and (10), or KRS 139.495;***

(d) The price received for repair labor performed upon tangible personal property exempt from the taxes imposed by this chapter under KRS 139.480(1), (11), (14), (15), (19), (24), (26), (29), (30), or KRS 139.483;

(e) The price received for labor ***to install or apply tangible personal property, the sale of which is excluded from the taxes imposed by this chapter under KRS 139.480(1), (10), (11), (12), (14), (15), (18), (20), (23), (24), (26), (29), or (30)***~~[or services used in installing or applying the property sold]~~;

(f)~~[(d)]~~ The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(g)~~[(e)]~~ Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(h)~~[(f)]~~ The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);

(i)~~[(g)]~~ Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 41. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of***:***

- ***a.*** Tangible personal property***;***
- ***b. Repair labor; or***
- ***c. Installation labor;***~~[,]~~or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;

(b) The furnishing of sewer services and intrastate telephonic and telegraphic communications and services;

(c) The sale of admissions, except, those taxed under KRS 138.480***;***

(d) The furnishing of labor to install taxable tangible personal property that remains tangible personal property whether or not any tangible personal property is transferred in conjunction with the installation service; and

(e) The furnishing of labor to maintain, restore, mend, or repair tangible personal property including the sale of contracts providing for the future repair or maintenance of tangible personal property such as extended warranties, maintenance contracts, and service agreements. The furnishing of labor to maintain, restore, mend,

or repair tangible personal property does not include professional services performed upon the human body or veterinarian services.

Section 42. KRS 139.130 is amended to read as follows:

(1) "Sales price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold;

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses;

(c) The cost of transportation of the property prior to its purchase.

(2) The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale;

(b) Any amount for which credit is given to the purchaser by the seller, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held by the seller for resale.

(3) "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales (excluding trading or premium stamps);

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) ***The amount charged for repair and installation labor to entities exempt from the taxes imposed by this chapter under KRS 139.470(1), (7), (10), or KRS 139.495;***

(d) The amount charged for repair labor performed upon tangible personal property exempt from the taxes imposed by this chapter as specified in KRS 139.480(1), (11), (14), (15), (19), (24), (26), (29), or (30);

(e) The amount charged for labor[~~ or services~~] rendered in installing or applying[~~ the~~] property***, the sale of which is exempt from the taxes imposed by this chapter under KRS 139.480(1), (10), (11), (12), (14), (15), (18), (20), (23), (24), (26), (29) or (30)***[~~ sold~~];

(f)[~~(d)~~] The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Section 43. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arms length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas,

coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline"[~~ as used herein~~] shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, V.M. and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10)[~~ "Average wholesale price" shall mean:~~

~~(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;~~

~~(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;~~

~~(11)~~] "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(11)[~~(12)~~] "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(12)[~~(13)~~] "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(13)[~~(14)~~] "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.

Section 44. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of ***fifteen cents ($0.15) per gallon***[~~nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis~~] shall be paid on all gasoline and ***twelve cents ($0.12) per gallon on all*** special fuel received in this state. Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state. The tax[~~ herein~~] imposed ***in this subsection*** shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state. Nothing[~~ herein~~] contained ***in this subsection*** shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. ***Effective July 1, 2000, the supplemental highway user motor fuel tax rate shall be four cents ($0.04) per gallon on gasoline and special fuels. Effective July 1, 2001, the supplemental highway user motor fuel tax rate shall be seven cents ($0.07) per gallon on gasoline and special fuels***[~~Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents ($0.05) on gasoline or two cents ($0.02) on special fuel and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220~~].

(3) ***A "Road for the Twenty-first Century Fund" is created within the state road fund and one cent ($0.01) per gallon of the supplemental highway user motor fuel tax levied in subsection (2) of this section shall be deposited in this fund. The fund may also receive additional appropriations from the road fund or the general fund. All receipts deposited to the fund shall be used exclusively to pave eligible unpaved or chip-and-seal rural roads. The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A that provide for the distribution of the fund. The administrative regulations shall provide for the proportional distribution of the fund to counties based on the number of miles of unpaved county roads in each county that exceed twenty percent (20%) of all miles of county roads in each county. The administrative regulation shall provide for the Transportation Cabinet, Department of Rural and Municipal Aid to administer the fund, including the establishment of criteria and a certification process to assure the eligibility of roads and their suitability for paving. Three percent (3%) of the fund shall be used by the department for the administration of the fund***[~~Effective with the calendar quarter beginning July 1, 1980, the cabinet shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter~~].

(4) ***On or before April 1, 2002, and on or before April 1 of each succeeding year, the cabinet shall recompute and publish the rate for the taxes imposed under this section and subsections (1) and (2) of Section 47 of this Part. The new rate per gallon shall be calculated by multiplying the rate in effect at the time of the calculation by the amount obtained by dividing the annual average United States consumer price index for all urban consumers, United States city average, as determined by the United States Department of Labor, for the previous year by the annual average for the year before***

the previous year. The rate calculated under this subsection shall be rounded to the nearest one-tenth cent ($0.001) and shall be effective on the July 1 after the calculation.

(5) Dealers with a tax-paid gasoline or special fuel inventory at the time ***the revised tax rates become***[~~an average wholesale price becomes~~] effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the ***revised tax rate***[~~average wholesale price for the new quarter~~]. The cabinet shall promulgate such rules and regulations to properly administer this provision.

Section 45. KRS 138.270 is amended to read as follows:

(1) (a) From the total number of gallons of gasoline and special fuel received by the dealer within this state during the next preceding calendar month, deductions shall be made for the total number of gallons received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240.

(b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts, and handling and reporting the tax, each dealer shall be allowed compensation equal to ***one and one-half percent (1.5%)***[~~two and one-fourth percent (2.25%)~~] of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to KRS 138.358. No compensation shall be allowed if the completed tax return and payment are not submitted to the Revenue Cabinet within the time prescribed by KRS 138.210 to 138.500.

(2) The tax imposed by KRS 138.220(1)***, (2), (3), and (4)***[~~ and (2)~~] shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the cabinet, by the twenty-fifth day of the next month, an estimated tax due amount equal to not less than ninety-five percent (95%) of his tax liability, as finally determined for the report month, shall not be required to file the monthly reports required by this chapter until the last day of the month following the report month, and shall be permitted to claim as a credit against the tax liability shown due on the report the estimated tax due amount so paid.

Section 46. KRS 138.280 is amended to read as follows:

(1) The reports required by KRS 138.240 shall be accompanied by a certified or cashier's check, payable to the State Treasurer, for the amount of tax due for the preceding calendar month, computed as provided in KRS 138.270 ***or any other payment method prescribed by the Revenue Cabinet.***[~~; except that~~] The cabinet may waive ***the certified or cashier's check***[~~this~~] requirement and accept the dealer's check where the dealer is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.210 to 138.340.

(2) By virtue of the allowance provided by KRS 138.270 to dealers for collecting and remitting the tax, every dealer is a trust officer of the state.

Section 47. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220[~~(1) and (2)~~] on the amount of gasoline and special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two ***and two-tenths cents ($0.022) per gallon***[~~percent (2%) of the average wholesale price as provided in subsection (1) of this section,~~] on the amount of gasoline and at the rate of ***five and two-tenths cents ($0.052) per gallon***[~~four and seven-tenths percent (4.7%)~~] on the amount of special fuels used in operations on public highways of this state.

(3) Every motor carrier shall pay for every motor vehicle operated upon the public highways of this state with a combined licensed weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds a weight distance tax computed at the rate of two and eighty-five hundredths cents ($0.0285) per mile.

(4) Those taxes levied under this section shall be computed and paid as provided in KRS 138.685 and 138.690.

(5) Those taxes levied under subsection (2) of this section shall be computed under subsection (4) of Section 44 of this Part.

Section 48. KRS 177.320 is amended to read as follows:

(1) Twenty-two and two-tenths percent (22.2%) of all funds arising from the imposition of taxes provided by KRS 138.220***(1)***, 138.660(1) and (2)***,*** and 234.320 shall be set aside for the construction, reconstruction***,*** and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the Transportation Cabinet of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.360.

(2) On or after July 1, 1980, eighteen and three-tenths percent (18.3%) of all funds arising from the imposition of taxes provided by KRS 138.220***(1)***, 138.660(1) and (2), and 234.320 shall be set aside for the construction, reconstruction***,*** and maintenance of county roads and bridges provided by KRS 179.410 and 179.415.

(3) All funds set aside in subsection (2) of this section for the construction, reconstruction and maintenance of county roads and bridges shall be allocated to the county in accordance with the formula established in KRS 177.360(1) pursuant to KRS 179.410.

(4) On or after July 1, 1986, one-tenth of one percent (0.1%) of all funds arising from the imposition of taxes provided by KRS 138.220***(1)***, 138.660, and 234.320 shall be set aside for the purposes and functions of the Kentucky Transportation Center as established by KRS 177.375 to 177.380, except that the receipts provided to the center by this subsection shall not exceed ***two***[~~one~~] hundred ninety thousand dollars ***($290,000)***[~~($190,000)~~] for any fiscal year.

Section 49. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1980, seven and seven-tenths percent (7.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220***(1)***, 138.660(1) and (2) and 234.320 shall be set aside by the Finance and Administration Cabinet for the construction, reconstruction, and maintenance of urban roads and streets and for no other purpose.

(2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the Department of Highways, design, operations, and construction manuals.

(3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as defined in KRS 81.015, and as described by the Bureau of Census tracts.

(4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

Section 50. KRS 234.320 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1)***, (2), (3), and (4)***[~~ and (2)~~] is hereby levied and shall be paid by the liquefied petroleum gas motor fuel dealer to the cabinet on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas motor fuel dealer to propel motor vehicles on the public highways, either within or without this state. An allowance of one percent (1%) of the tax shall be made to the liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts, and handling and reporting the tax.

(2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas motor fuel by any political subdivision of the state, except the licenses under KRS 234.120.

(3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed on heavy equipment motor carriers under KRS 138.660.

Section 51. KRS 234.380 is amended to read as follows:

Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and pay the state tax at the rate levied in KRS 138.220(1)***, (2), (3), and (4)***[~~ and (2)~~] on all such fuel to the Revenue Cabinet. The dealer shall issue an invoice to the customer whenever the sale or delivery is consummated giving the invoice date, name and address of the customer, and number of taxable gallons sold or delivered. The number of taxable gallons to be invoiced shall be determined in the following manner by the dealer:

(1) The metered gallons, if placed into a fuel tank of a motor vehicle;

(2) The metered gallons, if placed into storage, all of which is to be used or sold for use in motor vehicles;

(3) The number of gallons to be used in motor vehicles, if the storage is for multiple uses. The number of taxable gallons to be determined by the user and the dealer based on the best estimate possible from mileage and efficiency records available; or

(4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank where another, or other motors are supplied with fuel also, then the number of gallons to be invoiced as taxable motor fuel shall be determined from mileage and fuel efficiency records.

Section 52. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) ***of this section*** shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. ***However, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track.*** For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on:

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 53. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made ***to the Revenue Cabinet on or before the fifteenth day of the month following each calendar month in which racing takes place***[~~weekly to the Revenue Cabinet no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting~~] and accompanied by reports as prescribed by the cabinet. All funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission shall ***during each calendar month in which racing takes place***[~~weekly, during each race meeting,~~] report to the Revenue Cabinet the total amount bet or handled the preceding ***calendar month***[~~week~~] and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission or his duly authorized

representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines, and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

SECTION 54. A NEW SECTION OF KRS 138.510 TO 138.550 IS CREATED TO READ AS FOLLOWS:

As used in KRS 138.510 to 138.550, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Capital improvement" means any addition, replacement, or remodeling of a structural unit of a racetrack, as defined in KRS 230.210, including but not limited to, the construction of barns used for the racetrack, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances purchased by the track, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack and appurtenances, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming a part of the track structure;

(3) "Horsemen's incentive" means the gross cash portion of the prize for which a race is run or other payment or credit to horsemen to cover stabling and transportation costs, but in the case of stabling and transportation costs, these costs shall not exceed fifty percent (50%) of the total amount allocated to horsemen's incentives under Section 55 of this Part and, to qualify for the incentives, stabling and transportation costs shall be agreed upon by the track receiving the tax credit provided in Section 55 of this Part and the horsemen's group or groups contracting with that track;

(4) "KEDFA" means the Kentucky Economic Development Finance Authority as defined in KRS 154.20-010; and

(5) "Tax parity amount" means the difference between the tax amount due and paid under KRS 138.510 by a track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above at the three and one-half (3.5%) rate and the amount of tax that would have been due if calculated at the one and one-half (1.5%) rate.

SECTION 55. A NEW SECTION OF KRS 138.510 TO 138.550 IS CREATED TO READ AS FOLLOWS:

(1) Effective for pari-mutuel tax returns due on or after February 1, 2001, a tax credit in an amount not to exceed the tax parity amount shall be allowed for qualifying capital improvements and horsemen's incentives, with fifty percent (50%) of the credit allocated to capital improvements and fifty percent (50%) allocated to horsemen's incentives.

(2) The following procedure shall be used to qualify a capital improvement or horsemen's incentive for the tax credit provided in this section:

(a) On or before December 1 of each year, a taxpayer shall submit an application to KEDFA detailing the plans and anticipated expenditures for capital improvements and horsemen's incentives for the upcoming calendar year.

(b) On or before December 31, KEDFA shall certify to the taxpayer and the cabinet the total amount of credit for capital improvements and horsemen's incentives to be allowed in the upcoming year.

(c) This amount shall be the allowable tax credit amount and shall be deducted from the pari-mutuel taxes due on live racing for the following calendar year, but the tax credit claimed in any given month shall not exceed the tax parity amount. Any unused credit amount may be carried forward to any succeeding reporting period until the credit is exhausted.

(d) If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, KEDFA may order the track to repay to the state all or any portion of the amount of any tax credit received under this section.

(3) KEDFA shall prescribe by administrative regulation all forms and procedures necessary for the implementation of this section.

SECTION 56. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

As used in Sections 56 to 83 of this Part:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Cable service" means the provision of video or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Cable service includes, but is not limited to, basic, extended, and premium service; pay-per-view service; and digital or other music service;

(3) "Communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics or any other medium or method now

in existence or hereafter devised. "Communications service" includes, but is not limited to, local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, internet protocal, or other similar means, mobile communications service, cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the 1996 Cable Act. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:

(a) Information services;

(b) Internet access service to the extent prohibited by federal law;

(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises; however, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;

(d) The sale or rental of tangible personal property subject to the tax imposed by KRS Chapter 139;

(e) The sale of directory and other advertising and listing services; or

(f) Billing and collection services provided to another communications service provider;

(4) "Engaged in business" means:

(a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of taking orders;

(b) Having real or tangible property in this state;

(c) Providing communications service by or through facilities located in this state; and

(d) Being required under KRS Chapter 139 to collect and remit sales and use tax;

(5) "In this state" or "in the state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;

(6) "Mobile communications service" includes, but is not limited to, any one-way or two-way radio communications service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes, but is not limited to, cellular communications service, personal communications service, paging service, specialized mobile radio service, and any other form of mobile one-way or two-way communications service;

(7) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(8) "Political subdivision" means any political subdivision as defined in KRS 61.420, excluding the Commonwealth of Kentucky, and which currently levies on any provider or its customers any of the following fees or taxes:

(a) Utility gross receipts tax under KRS 160.613 and 160.614;

(b) The public service corporation property tax under KRS 136.120; or

(c) Any local franchise fees;

(9) "Prepaid calling arrangement" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangement" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place;

(10) "Provider" means any person engaged in the business of selling communications service;

(11) "Purchaser" means the person paying for communications service;

(12) "Resale" means the purchase of a communications service by a provider required to collect the tax levied by Section 57 of this Part for sale or incorporation into a communications service for sale, including, but not limited to:

(a) Carrier access charges;

(b) Right of access charges;

(c) Interconnection charges paid by the provider of mobile communications service or other communications service;

(d) Charges paid by cable service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider;

(e) Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2000, to which access is provided on an unbundled basis pursuant to 47 U.S.C. sec. 251(c)(3); and

(f) Charges paid by any other service provider not engaged in the business of selling communications service;

(13) "Retail purchase" means any purchase of a communications service for any purpose other than resale;

(14) "Sale" means the furnishing of a communications service for consideration;

(15) (a) "Sales price" means the total amount billed by a provider for the sale of communications service in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:

1. Any charge attributable to the connection, movement, change, or termination of a communications service;

2. Any charge for detail billing; or

3. Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price;

(b) "Sales price" does not include any of the following:

1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;

2. Charges for the sale or rental of tangible personal property;

3. Charges for the sale of directory and other advertising and listings;

4. Charges for billing and collection services provided to another communications service provider;

5. Bad check charges;

6. Late payment charges;

7. The sale or usage of a prepaid calling arrangement; and

8. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any local political subdivision, including but not limited to emergency telephone surcharges, upon the purchase, sale, use, or consumption of any communications service, which is permitted or required to be added to the purchase price of the communications service;

(16) "Satellite broadcast and wireless cable service" means point-to-multipoint distribution services that include, but are not limited to, direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave or any other equipment directly to the purchaser's premise. "Satellite broadcast and wireless cable service" includes, but is not limited to, basic, extended, and premium service; pay-per-view service; digital or other music service; and two-way service; and

(17) "Service address" means:

(a) In the case of cable, satellite broadcast, satellite master antenna television, direct-to-home, and wireless cable service the location where the purchaser receives the service in this state;

(b) In the case of any other communications service, the location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems, third number and calling card calls and the like, "service address" means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;

(c) In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and

(d) In the case of mobile communications service provided under intercarrier roaming agreements, the service address shall be deemed to be the physical location of the serving carrier's switch that originates or terminates the call.

SECTION 57. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) A communications excise tax is hereby imposed on the retail purchase of communications service which is charged to a service address in this state, regardless of where those amounts are billed or paid, when the communications service:

(a) Originates and terminates in this state;

(b) Originates in this state; or

(c) Terminates in this state.

(2) The communications excise tax rate shall be six percent (6%) of the sales price charged for communications service that is provided on or after January 1, 2001.

SECTION 58. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The tax imposed by Section 57 of this Part shall be collected by the provider from the purchaser. The provider shall give the purchaser a receipt for the tax collected. The provider shall separately state the tax billed from all other charges on such receipt.

(2) Every purchaser is liable for the tax imposed by Section 57 of this Part. The liability is not extinguished until the tax has been paid to this state, except that a receipt from a provider registered under Section 62 of this Part reflecting that the provider has billed the tax, with evidence that the purchaser has paid the tax, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

SECTION 59. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

There are excluded from the tax imposed by Section 57 of this Part:

(1) Communications services the purchase of which is prohibited from taxation under the Constitution or laws of the United States;

(2) Communications services provided to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and communications services provided to counties, cities, school or special districts as defined in KRS 65.005. This exemption shall apply only to purchases for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants.

SECTION 60. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The tax or any part thereof required by Section 58 of this Part to be collected by the communications service provider from the purchaser shall:

(1) Be deemed to be held in trust by the provider for and on account of the Commonwealth of Kentucky; and

(2) Constitute a debt owed by the provider to this state.

SECTION 61. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

A provider is authorized to take as a deduction from the tax due under Section 57 of this Part, the amount of communications excise tax paid in a prior reporting period on any debt or account receivable arising from the sale of communications service which has become worthless and charged off for income tax purposes. If any charged off communications excise tax is thereafter in whole or in part collected by the provider, the amount so collected shall be included in the first return filed after collection.

SECTION 62. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Every communications service provider required to collect the tax imposed on the sale of communications service by Section 58 of this Part shall file an application for a certificate of registration with the cabinet. The application shall be in the form prescribed by the cabinet. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

SECTION 63. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The taxes required to be collected by Section 58 of this Part are due and payable to the cabinet monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

SECTION 64. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

To prevent actual multistate taxation of a communications service subject to taxation under Section 57 of this Part, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications service, shall be allowed a credit against the tax imposed by Section 57 of this Part to the extent of the amount of the tax legally paid in the other state.

SECTION 65. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) On or before the twentieth day of each month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly authorized agent.

(3) In the case of a return filed by a provider, the return shall show the amount billed for communications services by the provider during the reporting period. The return shall also show the amount of taxes billed during the period covered by the return and other information as the cabinet deems necessary for the proper administration of this chapter.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of tax due, to

the cabinet.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by this chapter, the cabinet may permit or require returns to be filed or tax payment to be made other than as specifically required by the provisions of the section.

(6) In the case of a return filed by a purchaser, the return shall show the total amount paid for communications service that became subject to tax during the reporting period.

SECTION 66. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

To reimburse the provider for the cost of collecting and remitting the tax, the provider shall deduct on each return one and three-fourths percent (1.75%) of the first one thousand dollars ($1,000) of tax due and one percent (1%) of the tax due in excess of one thousand dollars ($1,000), if the amount due is not delinquent at the time of payment. This section does not apply to purchasers required by Section 65 of this Part to report the tax directly to the cabinet.

SECTION 67. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 68. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return is received, the cabinet shall examine it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the later of the date the return was filed or due, except in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be mailed to the provider. The provider and the cabinet may agree to extend this time period.

(2) Any provider aggrieved by any action of the cabinet may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

SECTION 69. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability, the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 70. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Every provider and purchaser shall keep records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every provider and purchaser who files the returns required under Section 65 of this Part shall keep records for not less than four (4) years from the making of the records unless the cabinet in writing authorizes their destruction at an earlier date.

SECTION 71. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

SECTION 72. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The taxes paid under this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain all information as the cabinet may require.

(3) No provider shall be entitled to a refund or credit of the taxes paid under this chapter where the taxes have been collected from a purchaser unless the amount of taxes collected from the purchaser are refunded to him by the provider who paid the taxes to the State Treasury.

SECTION 73. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The cabinet shall administer the provisions of Sections 56 to 83 of this Part and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this chapter, conferred generally upon the cabinet by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

SECTION 74. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is deemed necessary to insure compliance with this chapter, the cabinet may require any person required to collect the taxes imposed by Section 57 of this Part to place security with it. The amount of the security shall be fixed by the cabinet but shall not be greater than three (3) times the estimated average monthly liability of the provider. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet subject to the limitations provided in subsection (1) of this section.

(3) If necessary, the cabinet may sell the security at public auction to recover any tax, interest, or penalty due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(4) The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

(5) Delivery means mailing the notice to the person to whom it is addressed, leaving it at his place of business with the person in charge of the place of business; or, if there is no one in charge, leaving it in a conspicuous place at the place of business. If the place of business is closed or the person to be served has no place of business, delivery includes:

(a) Leaving it at his or her home with some person of suitable age and discretion residing in the home;

(b) Serving it upon the agent for service process; or

(c) Any other method permitted by the Kentucky Revised Statutes.

(6) Notice by certified mail shall be postmarked no later than ten (10) days prior to the sale.

(7) Any surplus above the amounts due to the cabinet after the sale shall be returned to the person who placed the security.

SECTION 75. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) (a) Notwithstanding any other provisions of this chapter, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable under this subsection if that person did not have authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(b) Taxes as used in this subsection shall include interest accrued at the rate provided by KRS 131.010(6) and all applicable penalties and fees imposed under this chapter and under KRS 131.180, 131.410 to 131.445 and 131.990.

(2) (a) Notwithstanding any other provision of KRS 275.150 or 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the dissolution nor withdrawal of the limited liability company or registered limited liability partnership from the state nor the cessation of holding any office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the taxes become or became due. No person will be personally and individually liable under this subsection that had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due.

(b) Taxes as used in this subsection shall include interest accrued at the rate provided by KRS 131.183 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990

SECTION 76. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Section 57 of this Part.

SECTION 77. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Any provider subject to the communications excise tax imposed by Section 57 of this Part that fails to file a return as required by Section 65 of this Part or fails to pay the tax as listed on the return shall not maintain an action, suit, or proceeding in any court or before any agency in this state or enforce in any way any obligation of any debts until the return is filed and the tax listed on the return is paid. This provision does not prohibit a provider from the rights afforded by KRS Chapter 131.

SECTION 78. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Penalties shall be imposed and assessed in accordance with the provisions of KRS 131.180.

SECTION 79. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

There is hereby established a fund to be known as the "Communications Excise Tax Fund" to be held and administered by *the Finance and Administration Cabinet. The moneys in the communications excise tax fund shall be invested by the Finance and Administration Cabinet in the same manner as moneys in the state general fund.*

SECTION 80. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The communications excise tax imposed by Section 57 of this Part, including any penalties or interest attributable to the nonpayment of such tax or for noncompliance with the provisions of Sections 56 to 83 of this Part, shall be collected by the cabinet and deposited in the communications excise tax fund.

(2) All amounts derived from the levy and collection of the tax imposed by Section 57 of this Part shall be appropriated and credited as follows:

(a) An amount equal to one-sixth (1/6) of the total amount collected shall be appropriated to the general fund of the state.

(b) Of the remaining five-sixths (5/6) of the total amount collected, an amount equal to the total collections of the communications excise tax multiplied by the state's historical percentage shall be appropriated to the general fund of the state and the remaining amounts shall be appropriated to the communications excise tax local distribution fund as created by Section 81 of this Part. The state's historical percentage shall equal the ratio of the state's portion of all taxes collected under KRS 139.100(2), plus the intangible portion of KRS 136.120 collected from providers and their customers for the period of July 1, 1998 through June 30, 1999, over all the taxes and fees under collected under KRS 139.100(2), 160.613, or 160.614, or the intangible portion of KRS 136.120, plus any local franchise fees collected statewide from providers and their customers for the same period. The actual communications excise tax collections from each county appropriated to the communications excise tax local distribution fund shall be credited to an account labeled for the county in which collected, to be distributed to the political subdivisions located within that county under Section 81 of this Part.

SECTION 81. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to be known as the "Communications Excise Tax Local Distribution Fund" to be held and administered by the Finance and Administration Cabinet. The moneys in the communications excise tax local distribution fund shall be invested by the Finance and Administration Cabinet in the same manner as moneys in the state general fund.

(2) By or before January 1, 2001, each political subdivision shall certify on a form prescribed by the cabinet that it will participate in the communications excise tax local distribution fund. As part of the certification, the political subdivision shall certify to the cabinet the amount of collections the political subdivision received from the taxes authorized under KRS 160.613, 160.614, the intangible portion of KRS 136.120, and local franchise fees from providers and their customers for the period of July 1, 1998, through June 30, 1999. This amount shall be the base amount of each political subdivision's portion of the account labeled under its county's name within the communications excise tax local distribution fund. By certifying, each political subdivision consents to the hearing process as provided under Section 82 of this Part.

(3) The cabinet shall pay out of the fund and distribute monthly to the various political subdivisions of the state the respective amounts to which each political subdivision is entitled under this section. Any overpayment to a political subdivision or any payment to a political subdivision in error may be adjusted by the cabinet on any subsequent payment to the political subdivision.

(4) All amounts distributed to political subdivisions from the communications excise tax local distribution fund under this section shall be used solely and exclusively for the provision of services to the general public, including, but not limited to, public protection, health services, education, libraries, transportation services, recreation facilities and services, and economic development.

(5) In no event shall any amount distributed to a political subdivision from the communications excise tax local distribution fund be used for any purely local purpose affecting only the inhabitants of the particular political subdivision, including the administration of local government.

(6) The amounts of the communications excise tax local distribution fund shall be distributed to each political subdivision in the following manner:

(a) Each political subdivision will be assigned a percentage based on its base amount divided by the total base amounts of all political subdivisions participating in the communications excise tax local distribution fund in the county of the political subdivision. For the purpose of this subsection, "political subdivision historical percentage" means this assigned percentage.

(b) Each political subdivision's share for any period equals its political subdivision historical percentage, as determined in this section, multiplied by the amount credited in the communications excise tax local distribution fund account labeled for the county in which the political subdivision is located for the period.

(c) For tax collections by providers for January 2001, and February 2001, the cabinet shall distribute to each

political subdivision its share of the communications excise tax local distribution fund on or before April 25, 2001.

(d) For all other periods, the cabinet shall distribute to each political subdivision its share of the communications excise tax local distribution fund by the twenty-fifth day of the next calendar month following collection by the cabinet from the providers.

(e) Upon a political subdivision's change in tax base affecting providers, including, but not limited to, annexations and originally nonparticipating political subdivisions, the historical percentages of all political subdivisions within that county will be reviewed and determined by agreement of all political subdivisions within the county, according to a fair division based on:

1. Where the tax revenues are generated within the county;

2. Relative population, including student population;

3. Property values; or

4. Any other relevant factors.

Any redetermination shall be subject to approval by the oversight committee. These redetermined percentages will become the new political subdivision historical percentages for the political subdivisions in that county. If all political subdivisions cannot come to an agreement on a determination, then the political subdivisions shall submit the determination to a factual hearing pursuant to Section 82 of this Part

(f) If a political subdivision believes its historical data used to determine its base amount is inaccurate, the political subdivision may request a redetermination of its political subdivision historical percentage by the oversight committee. The political subdivision historical percentages of all political subdivisions within the political subdivision's county will be redetermined effective prospectively beginning with the next distribution cycle occurring ninety (90) days after the matter is finally settled.

1. If in the period after June 30, 1999, and before December 31, 1999, any political subdivision had a substantial change in its tax base by enacting a tax or modifying the rate under KRS 160.613, KRS 160.614, and local franchise fees, the political subdivision may request a determination of its political subdivision historical percentage by the cabinet. If the cabinet determines that a redetermination is appropriate, it shall make the redetermination using the amounts of collections those political subdivisions received from taxes under KRS 160.613, KRS 160.614, and local franchise fees from providers and their customers during the period from July 1, 1999, to June 30, 2000, and annualizing part-year payments. These percentages will become the new political subdivision historical percentages for the political subdivisions within that county.

2. A substantial change in its tax base for the purposes of this paragraph is enactment of a new tax previously not collected or a change in the rate of a tax already applied, as long as the new enactment of the tax or change in rate was enacted by the political subdivision on or before December 31, 1999.

(g) As of January 1, 2002, any political subdivision that is a school district and that:

1. As of January 1 2000, did not levy a utility gross receipts tax under KRS 160.613 and 160.614 on providers;

2. Is not at or above maximum Tier 1 of the Support Education Excellence in Kentucky ("SEEK") formula under KRS 157.310 to 157.440 and the administrative regulations thereunder; and

3. Receives an amount in excess of its base amount plus eight percent (8%) per annum from the end of the base amount period shall reduce the rate on another tax or fee levied by the school district in order to eliminate the excess. This reduced rate will be levied prospectively beginning with the next assessment date for the tax or fee after June 30, 2002. This is meant to be a one (1) time rate adjustment and no additional adjustments will be required as a result of this paragraph. The determination as to whether a school district has received an amount in excess of its base amount plus eight percent (8%) per annum will be made by the Department of Education on or before June 30, 2002.

SECTION 82. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The Communications Excise Tax Local Distribution Fund Oversight Committee is hereby created and established within the cabinet. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state governmental officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association and the Kentucky School Administrators Association from which the Governor shall select one (1) member each. The remaining three (3) members shall be appointed by the Governor as at large members. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the

oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.

(2) The duties of the Communications Excise Tax Local Distribution Fund Oversight Committee are:

(a) Monitoring the cabinet's implementation of the communications excise tax local distribution fund and to report their findings to the secretary of the cabinet; and

(b) Acting as a finder of fact for the secretary of the cabinet in disputes in and between political subdivisions and between political subdivisions and the cabinet regarding the implementation of the communications excise tax local distribution fund.

(3) Any political subdivision may file a complaint with the oversight committee on a form prescribed by the committee.

(4) The oversight committee shall give notice to any political subdivision which may be affected by the complaint. Any political subdivision intending to respond to the complaint must do so in writing within thirty (30) days of notice of the complaint.

(a) The oversight committee shall give due notice of the times and places of its hearings.

(b) The parties shall be entitled to be heard, to present evidence, and to examine and cross examine witnesses.

(c) The oversight committee shall act by majority vote.

(d) The oversight committee shall adopt and publish rules of procedure and practice regarding its hearings.

(e) The oversight committee shall make recommendations to the secretary.

(5) The secretary of the cabinet shall review the findings of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.

(6) The parties in the dispute shall have the rights and duties to appeal any final ruling to the Kentucky Board of Tax Appeals and the courts under KRS 131.340.

(7) Nothing contained in this section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

SECTION 83. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in paragraph (c) of this subsection, to the extent legally permissible, every political subdivision of this state shall be prohibited from the following:

(a) Levying any tax, charge, or fee, including franchise fees, on communications service, or collecting any such tax, charge, or fee from providers or purchasers;

(b) Requiring any provider, including, but not limited to, cable service providers, to enter into or extend the term of a franchise or other agreement that requires the payment of a tax, charge, or fee; or

(c) Enforcing any provision of any ordinance or agreement to the extent that the provision obligates a provider to pay to the political subdivision a tax, charge, or fee.

(2) For purposes of this section, a tax, charge, or fee includes any tax, charge, fee, or in-kind payment of property or services that is required by ordinance or agreement to be paid or furnished to a political subdivision by or through a provider, in its capacity as a provider, regardless of whether such tax, charge, fee, or in-kind payment of property or services is:

(a) Designated as a franchise fee, sales tax, excise tax, user fee, occupancy fee, subscriber charge, license fee, pole fee, tower fee, base station fee, or otherwise;

(b) Measured by the amounts charged for services, the type or amount of equipment or facilities deployed, or otherwise;

(c) Intended as compensation for the use of public or private rights of way, the right to conduct business, or otherwise; or

(d) Permitted or required to be separately stated on the purchaser's bill.

(3) This section shall not apply to ad valorem taxes levied under KRS 132.020, emergency telephone surcharges, surety bonds or letters of credit designed to protect against damages to public rights of way for violations of regulatory requirements, and permit or inspection fees of general applicability that are:

(a) Not related to construction in the rights of way; and

(b) Levied solely to defray the actual costs of administering the permitting process or inspection program.

(4) Notwithstanding any provision of law to the contrary, if a political subdivision imposes or otherwise attempts to require the payment of a tax, charge, or fee described in subsection (1)(a) and (b) of this section, the political subdivision shall not receive any share of the proceeds of the tax levied by Section 57 of this Part for the period that the imposition or attempt occurs.

(5) To the extent that a provider actually pays a tax, charge, or fee described in subsection (1)(a) and (b) of this section

with respect to communications service that is also subject to the tax imposed by Section 57 of this Part, the provider shall be entitled to a credit against the amount payable to the cabinet under Section 57 of this Part in the amount of such tax, charge, or fee up to the amount of the excise tax billed with respect to the communications service.

(6) Nothing in this section shall be construed to impair or modify the obligation of contracts or agreements in effect at the time of the enactment of this section until such time as the contract or agreement expires by its terms.

Section 84. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon. ***With respect to property of companies principally engaged in the provision of communications service as defined in Section 56 of this Part, real property shall mean only land and buildings permanently affixed to land and shall not include portable buildings, towers, pole lines, transmission lines, conduit and cable, whether above or below ground, and all similar property. For purposes of this subsection, "companies principally engaged in the provision of communications services" has the same meaning as that described in subsection (1)(h) of Section 2 of this Part.***

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

  (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

  (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

  (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

  (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

  (c) The value of improvements to existing nonresidential property;

  (d) The value of new residential improvements to property;

  (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

  (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

  (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

  (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

  (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

SECTION 85. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall have sole power to value and assess all of the tangible personal property of companies principally engaged in the provision of communications services, whether or not the property has previously been assessed by the cabinet and shall allocate the assessment as provided in subsection (2) of this section, and shall certify property liable for local taxation to the counties, cities, and taxing districts as provided in subsection (3) of this section. All of the

property assessed by the cabinet under this section shall be assessed as of January 1 each year, and the lien therefor shall attach as of the assessment date. In the case of companies which are not principally engaged in the provision of communications service, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the property is devoted to communications service subject to assessment by the cabinet under this section and shall require the remainder of the property to be assessed by the local taxing authorities. For purposes of this paragraph, "companies principally engaged in the provision of communications services" has the same meaning as that described in subsection (1)(h) of Section 2 of this Part.

(2) The cabinet shall allocate the assessed value of communications property in this state among the counties, cities, and taxing districts. The assessed value shall be allocated to the county, city, or taxing district where the property is situated.

(3) The cabinet shall, immediately after fixing the assessed value of the property of a communications service provider for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the cabinet shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(5) The certification of valuation shall be filed by each county clerk in the clerk's office and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value

Section 86. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company,[~~ telephone company, telegraph company,~~] commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company,[~~ cable television company,~~] municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies,[~~ and~~] taxicab companies, *and providers required to collect the tax levied by Section 57 of this Part,* shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Revenue Cabinet shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the cabinet, and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 87. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;

(b) The furnishing of sewer services[~~ and intrastate telephonic and telegraphic communications and services~~];

(c) The sale of admissions, except, those taxed under KRS 138.480.

Section 88. KRS 139.160 is amended to read as follows:

"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses and includes natural, artificial and mixed gas, electricity,[~~ and~~] water***, and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangement" means the exclusive purchase of communication service, paid for in advance, which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed***.

Section 89. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) ***to***[~~through~~] (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) ***to***[~~through~~] (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the cabinet pursuant to administrative regulations promulgated by the cabinet. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the cabinet may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the cabinet may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) ***to***[~~through~~] (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) ***to***[~~through~~] (7) of this section.

(10) Public service companies***, companies providing communications services as defined in Section 56 of this Part,*** and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the cabinet.

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the cabinet under paragraph (b) of this subsection.

(11) Nothing in this section shall be construed as allowing or requiring the filing of a combined return under the unitary business concept or a consolidated return.

Section 90. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of~~[telephonic and telegraphic communications services,]~~ electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas purchases the telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas received by the tax rate levied under the provisions of this section.

(3) "Gross cost" shall mean the total cost of the telephonic and telegraphic communications, electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the telecommunication and telegraphic services or tangible personal property, such as gas, electricity, and water, regardless from whom purchased.

SECTION 91. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

To the extent that a person providing communications services, as defined by Section 56 of this Part, that is regulated as to rate by the Kentucky Public Service Commission, experiences a tax savings as result of the provisions of Sections 56 to 83 of this Part, the savings shall inure proportionately to the benefit of all customers of the person, including residential, business, and interconnection services.

Section 92. KRS 21.470 is amended to read as follows:

All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.510 are hereby exempted from any state, county or municipal tax, ***except the alternative tax determined in Section 17 of this Part,*** and shall not be subject to execution, attachment, garnishment or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.510 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

Section 93. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax ***except the alternative tax determined in Section 17 of this Part***, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations and child support orders for current, owed, or to-be- owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 94. KRS 67A.350 is amended to read as follows:

All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 67A.220 to 67A.340 and accumulated contributions and cash securities in the fund created under KRS 67A.220 to 67A.340 are hereby exempted from any state tax ***except the alternative tax determined in Section 17 of this Part***, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 67A.220 to 67A.340 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

Section 95. KRS 161.700 is amended to read as follows:

(1) The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax ***except the alternative tax determined in Section 17 of this Part***, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter, and except for court or administratively ordered current child support, owed child support, or to-be-owed child support. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 96. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax ***except the alternative tax determined in Section 17 of this Part***, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

(4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall conform to the requirements of subtitle 32 of KRS Chapter 304 and shall be exempt from conformity with subtitle 17A of KRS Chapter 304.

Section 97. KRS 161.569 is amended to read as follows:

(1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as he is employed in a position for which the optional retirement plan is available.

(2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.

(3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.

(4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax ***except the alternative tax determined in Section 17 of this Part***; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the

contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(5) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

1. To the designated company or companies, an amount equal to the amount that would have been payable to the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System pursuant to subparagraph 2. of this paragraph; and

2. To the Kentucky Teachers' Retirement System, an amount equal to the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary. This payment shall continue to be made on behalf of all participants in the optional retirement plan until July 1, 2018, the current amortization period of the Kentucky Teachers' Retirement System.

(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986.

Section 98. KRS 141.021 is amended to read as follows:

Notwithstanding the provisions of KRS 141.010, federal retirement annuities, and local government retirement annuities paid pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or 96.180, shall be excluded from gross income ***but shall be included in the computation of the alternative tax determined in Section 17 of this Part***. Except federal retirement annuities and local government retirement annuities accrued or accruing on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

SECTION 99. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

For taxable years beginning after December 31, 2000, there shall be allowed a personal exemption from net income under subsection (11)(b) of Section 6 of this Part in an amount equal to the personal exemption permitted by Section 151 of the Internal Revenue Code.

Section 100. KRS 141.206 is amended to read as follows:

(1) Every partnership or S corporation owning property or engaging in business in Kentucky, shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal partnership return or S corporation return with the form prescribed and furnished by the cabinet.

(2) Partnerships and S corporations shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(3) Individuals or corporations carrying on a business as a partnership or S corporation shall be liable for income tax only in their individual or corporate capacities, and no income tax shall be assessed upon the income of any partnership or S corporation except as prescribed in KRS 141.040***(6)***~~[(5)]~~.

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the cabinet.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation carrying on business only in Kentucky are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation which does business within and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

(a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multistate partnership or

shareholders in a multistate S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in an S corporation which does not carry on business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as an S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

SECTION 101. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 48.010, 48.110, 48.115, 48.120, 48.300, 48.310, and any other provisions of law, the actions contained in Part XIII of this Act are permanent in nature; shall be codified, as appropriate, into the Kentucky Revised Statutes; and shall be construed and treated as any other permanent enactment of the General Assembly.

Section 102. The General Assembly hereby finds and declares that:

(1) The health and well-being of the citizens of the Commonwealth depend upon the services provided by the appropriations made in the Commonwealth's biennial budget;

(2) Appropriations for public purposes depend on adequate resources to fund the projected expenditures set forth in the Commonwealth's biennial budget; and

(3) For these reasons, the measures contained in Part XIII of this Act are incidental to the primary purpose of providing appropriations for the benefit of the citizens of the Commonwealth.

Section 103. The following KRS sections are repealed:

160.614 Tax on gross receipts from furnishing of cable television services.

175.505 Debt payment acceleration fund -- Revenue source -- Use to accelerate payment of turnpike authority debt.

Section 104. (1) Sections 1 to 5, 7 and 8, 92 to 98, and 100 of this Part and subsections (14) and (26) of Section 6 of this Part apply for taxable years beginning on or after January 1, 2000.

(2) Sections 25 to 28 of this Part apply for assessments made on or after January 1, 2001.

(3) Section 89 of this Part applies for any taxable return filed on or after July 1, 2000.

(4) The repeal of KRS 160.614 in Section 103 of this Part applies to all services billed on statements dated on or after January 1, 2001, regardless of when the services are provided.

Section 105. (1) Sections 56 to 91 of this Part take effect January 1, 2001.

Section 106. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of Part XIII of this Act take effect at the beginning of the fiscal year, an emergency is declared to exist and this Part XIII of this Act takes effect July 1, 2000.

HB 576, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

		2000-01	2001-02
1.	General Assembly		
	General Fund	9,812,300	13,312,300
	Restricted Funds	153,500	97,300
	Total	9,965,800	13,409,600

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost of living adjustment authorized for the 1998-2000 biennium. Notwithstanding KRS 6.190, 6.213, and 6A.020, the daily compensation provided by KRS 6.190 and 6A.020 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 1998-2000 biennium and shall continue as adjusted on January 1, 2001, and January 1, 2002, by the all urban consumer price index (CPI-U) not to exceed 5 percent (5%) per annum but not less than zero percent (0%) per annum.

			2000-01	2001-02
2.	Legislative Research Commission			
	General Fund	26,638,100	27,304,100	
	Restricted Funds		2,200	2,200
	Total		26,640,300	27,306,300

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in fiscal year 2000-2001 and 261 in fiscal year 2001-2002. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

The above General Fund appropriation includes $150,000 in fiscal year 2001-2002 for the capital project authorized in the Capital Projects Budget, Part II. Project funds may be transferred to the Capital Construction Fund.

TOTAL - OPERATING BUDGET

		2000-01	2001-02
General Fund	36,450,400	40,616,400	
Restricted Funds		157,000	99,500
TOTAL		36,607,400	40,715,900

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse but shall continue into the 2000-2001 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

		2000-01	2001-02
1.	Legislative Research Commission		
	a. Printing/color duplicating machine		
	General Fund	150,000	
	TOTAL		150,000

The amount listed above is not in addition to the funds appropriated in the Operating Budget, Part I.

TOTALS - LEGISLATIVE BRANCH BUDGET

		2000-01	2001-02
General Fund	36,450,400	39,950,400	
Restricted Funds		157,000	99,500
TOTAL		36,607,400	40,049,900

PART III

GENERAL PROVISIONS

1. The Director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The Director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 Regular Session of the General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the Director of the Legislative Research Commission to prepare a final budget document reflecting the 2000-2002 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HB 577, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund, local facilities use allowance contingency fund, and for services performed by the Circuit Clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2000-01	2001-02
General Fund	141,572,700	150,206,900
Restricted Funds	9,530,300	8,207,300
Federal Funds	2,083,300	1,734,700
Total	153,186,300	160,148,900

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 2000-2001 and in fiscal year 2001-2002 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 2000-2001 and a five percent (5%) adjustment for the justices and judges in fiscal year 2001-2002. Also included are funds for the salaries of the circuit clerks in fiscal year 2000-2001 and fiscal year 2001-2002 as provided for in the judicial branch recommendation. Notwithstanding KRS 23A.040 and KRS 23A.045, the Circuit Court judgeships in Floyd County (31st Circuit) and Christian County (3rd Circuit) created by the 1998 General Assembly are established as family court judgeships. General Fund amounts are included in fiscal year 2000-2001 and fiscal year 2001-2002 to provide for the continuation of these judgeships and related family court pilot projects.

b. Local Facilities Fund

	2000-01	2001-02
General Fund	43,799,700	58,437,600

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse and shall continue into fiscal year 2000-2001, and any unexpended balance at the close of fiscal year 2000-2001 shall not lapse and shall be continued into fiscal year 2001-2002.

c. Local Facilities Use Allowance Contingency Fund

	2000-01	2001-02
General Fund	897,000	897,000

General Fund amounts are included to provide for cost overruns in court facilities projects authorized by the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun not to exceed fifteen percent (15%) shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The Director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Local Facilities Fund as required for any authorized cost overruns.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse and shall continue into fiscal year 2000-2001, and any unexpended balance at the close of fiscal year 2000-2001 shall not lapse and shall be continued into fiscal year 2001-2002.

Total Court of Justice

	2000-01	2001-02
General Fund	186,269,400	209,541,500
Restricted Funds	9,530,300	8,207,300
Federal Funds	2,083,300	1,734,700
Total	197,883,000	219,483,500

2. Judicial Form Retirement System

	2000-01	2001-02
General Fund	4,616,700	4,633,400

General Fund amounts are included to provide for the 1999 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $420,000 in each fiscal year contingent upon passage of enabling legislation related to the senior status program for special judges.

TOTAL - OPERATING BUDGET

	2000-01	2001-02
General Fund	190,886,100	214,174,900
Restricted Funds	9,530,300	8,207,300
Federal Funds	2,083,200	1,734,700
TOTAL	202,499,700	224,116,900

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects

The multiyear schedule for the use allowance payments for the capital costs for each local facility is contained in the Judicial Branch Budget Recommendation.

a.	Casey County - Project Scope	6,837,200
b.	Magoffin County - Project Scope	7,606,200
c.	Knott County - Project Scope	6,903,200
d.	Bullitt County - Project Scope	14,336,600
e.	Wayne County - Project Scope	7,339,300
f.	Johnson County - Project Scope	7,461,200
g.	Perry County - Project Scope	8,490,200
h.	Muhlenberg County - Project Scope	6,958,500
i.	Clay County - Project Scope	7,075,800
j.	Simpson County - Project Scope	7,263,700
k.	Breathitt County - Project Scope	6,735,400
l.	Metcalfe County - Project Scope	5,439,300
m.	Carter County - Project Scope	7,472,100
n.	Cumberland County - Project Scope	5,560,200
o.	Nelson County - Project Scope	12,553,800
p.	Boone County - Additional Scope	8,328,100
q.	Bourbon County - Additional Scope	2,400,000

r.	Christian County - Additional Scope	8,284,200
s.	Harlan County - Additional Scope	5,070,400
t.	Harrison County - Additional Scope	3,079,700
u.	Franklin County - Lease Office Space (Millcreek Park)	
v.	Franklin County - Lease Court of Appeals (Democrat Drive)	

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

Any court facility project authorized by the 2000 General Assembly shall be subject to standards and guidelines adopted by the Chief Justice. A written agreement, as specified by the Administrative Office of the Courts shall be executed by the county and the Administrative Office of the Courts before any action on any authorized project shall commence. The written agreement shall specify the requirements of the county and the Administrative Office of the Courts relating to the project. Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

TOTAL - JUDICIAL BRANCH BUDGET

	2000-01	2001-02
General Fund	190,886,100	214,174,900
Restricted Funds	9,530,300	8,207,300
Federal Funds	2,083,200	1,734,700
TOTAL	202,499,700	224,116,900

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2000, and June 30, 2001, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2000-2002 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HJR 83, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 State/Executive Branch Budget Bill or the 2000-2002 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 2000-2002 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 State/Executive Branch Budget Memorandum is as follows:

HJR 84, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 Judicial Branch Budget Bill or the 2000-2002 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 2000-2002 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 Judicial Branch Budget Memorandum is as follows:

HJR 85, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 Legislative Branch Budget Bill or the 2000-2002 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 2000-2002 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 Legislative Branch Budget Memorandum is as follows:

The Committee on Appropriations and Revenue reported **HB 439**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that **HB 421, HB 564**, and **HB 588** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **HB 439**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 1024** and **HB 844**. Agreed.

Representative Stumbo moved that **HB 502, HB 576, HB 577, HJR 83, HJR 84,** and **HJR 85** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Barrows moved the adoption of the following **Legislative Citation No. 102**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Vivian Richmond, St. Leo Elementary School, upon being named a state winner in the 2000 Commonwealth Cleanup Week Poster Contest sponsored by the Kentucky Natural Resources and Environmental Protection Cabinet. In addition, Ms. Richmond has been awarded a $100 U.S. Savings Bond and her school will receive a $1500 grant from the NREP Cabinet to be used in the implementation of an environmental education program. This outstanding young scholar is commended for the phenomenal effort put forth to promote environmental protection and awareness. The members of this distinguished body are pleased to join with Representative Joe Barrows in congratulating Vivian Richmond upon this stellar accomplishment and in extending best wishes for continued success in the future. Done in Frankfort, this tenth day of March, in the year two thousand.

Legislative Citation No. 102 was adopted without objection.

Representative Ballard moved the adoption of the following **Legislative Citation No. 101**.

The House of Representatives of the Commonwealth of Kentucky hereby extends sincere congratulations to Rev. and Mrs. James W. Scott on the occasion of their Silver Anniversary and in celebration of twenty-five years of beloved companionship which constitutes an exceptional marriage. This honorable body is delighted to join Representative Eddie Ballard in commending the extraordinary abilities of this devoted couple to cultivate and nurture a loving family and cherished friendships and in extending to them warmest wishes for many continued years of happiness and fulfillment. Done in Frankfort, this tenth day of March, in the year two thousand.

Legislative Citation No. 101 was adopted without objection.

Representative Yonts moved the adoption of the following **Legislative Citation No. 103**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Taylor Hill and Cody Wayne Stirsman, Bremen Elementary School, upon being named state winners for their grade levels in the 2000 Commonwealth Cleanup Week Poster Contest sponsored by the Kentucky Natural Resources and Environmental Protection Cabinet. Further, as a result of their successful efforts, both of these talented young students were awarded a U.S. Savings Bond and their school will receive a monetary grant from the NREP Cabinet to be used to implement an environmental education program. The members of this distinguished body are pleased to join with Representative Brent Yonts in congratulating these diligent young citizens from Muhlenberg County for their efforts to promote Commonwealth Cleanup Week and in extending best wishes for their continued success. Done in Frankfort, this tenth day of March, in the year two thousand.

Legislative Citation No. 103 was adopted without objection.

Representative Rader moved the adoption of the following **Legislative Citation No. 104**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor and memory of Milton Ogle and expresses deepest sympathy to all who share in the loss of this distinguished gentleman, a leader in programs to help poor and disenfranchised people in Appalachia. A 1955 graduate of Berea College, he was co-founder and director of the Appalachian Volunteers, which was begun prior to the War on Poverty. He was instrumental in the development of the Appalachian Research and Defense Fund, designed to protect people's rights and assist those unable to afford legal representation in Kentucky and West Virginia and served as that organization's executive director in the State of West Virginia. A courageous and hard worker on behalf of the dispossessed citizens of Appalachia, he worked, early in his career, for the Council of the Southern Mountains and helped organize an Appalachian governors' conference, which represented the start of a movement that led to the federal Appalachian Regional Development Act and the establishment of the Appalachian Regional Commission. The members of this most august body do solemnly join Representative Marie L. Rader in paying tribute to this astute and most compassionate gentleman, Milton Ogle, for his vast contributions to his fellow citizens and in extending expressions of deepest sympathy to his beloved wife, Mary Garrett Ogle; his loving children, Angela D. Erwin and Thomas E. Ogle; his devoted brothers and sisters; his cherished grandchildren; and his many friends and colleagues. Done in Frankfort, this tenth day of March, in the year two thousand.

Legislative Citation No. 104 was adopted without objection.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 685**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 803**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **HB 737** and **HB 777**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **HB 405**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 689**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **HB 777, HB 737, HB 825,** and **HB 911**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "nay" to "yea" on **HB 911**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 572**, by Representative Richards:

On page 2, line 3, by deleting "***has been***" and inserting in lieu thereof "***may be***"; and

On page 2, line 4, before the "***;***" by inserting "***pending certification***"; and

On page 2, line 22, after the "***.***" by inserting:

"***The provisions in Sections 1 to 17, 18, and 19 of this Act shall be liberally construed and applied to advance public purposes.***"; and

On page 6, line 9, after "***;***" by inserting " ***and***"; and

On page 6, line 14, after "***responsibilities***" by deleting "***;and***" and inserting in lieu thereof "***.***"; and

On page 6, by deleting lines 15 through 21 in their entirety; and

On page 7, line 22, by inserting "***administration of the***" after "***the***"; and

On page 7, line 25, after "***,***" by deleting "***unless:***" and inserting in lieu thereof "***except that any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.***"; and

On page 7, lines 26, through page 8, line 2 by deleting them in their entirety; and

On page 10, line 18, by inserting "***that is satisfactory to the science and technology organization,***" after "***Commonwealth***"; and

On page 10, by deleting lines 19 through 23 in their entirety and inserting in lieu thereof:

"***(b) Provide assurance to the science and technology organization that the university and the qualified company have negotiated the ownership and disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the university.***

(7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky research and development voucher fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of Sections 6, 7, and 8 of this Act."; and

On page 10, line 24, by deleting "***(7)***" and inserting in lieu thereof "***(8)***"; and

On page 14, line 18, by inserting "***that is satisfactory to the council,***" before "***to***"; and

On page 14, line 20, by inserting "***to the council***" after "***assurance***"; and

On page 14, by deleting lines 22 through 24 in their entirety, and inserting in lieu thereof:

"***property rights, and equity or related position relating to the contract between the qualifying company and a partnering entity.***"; and

On page 15, line 1, by inserting "***not***" before the second "***made***"; and

On page 15, after line 2 by inserting:

"***(7) Prior to certifying a qualified company, the council may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky rural innovation fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of Sections 10, 11, and 12 of this Act.***"; and

On page 15, line 3, by deleting "***(7)***" and inserting in lieu thereof "***(8)***"; and

On page 17, line 17, by inserting "***to the science and technology organization***" after "***assurance***"; and

On page 17, by deleting lines 19 through 21 in their entirety, and inserting in lieu thereof:

"***property rights, and equity or related position relating to the contract between the qualifying company and a partnering entity.***"; and

On page 17, after line 21 by inserting:

"***(6) Prior to approval of funding awards, the science and technology organization may negotiate with the university the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky commercialization fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of Sections 14, 15, and 16 of this Act.***"; and

On page 17, line 22, by deleting "***(6)***" and inserting in lieu thereof "***(7)***".

Floor Amendment No. 2 Title to **HB 763**, by Representative A. Arnold:

By amending the title to read as follows: "AN ACT relating to state employee performance evaluations."

Floor Amendment No. 3 to the Committee Substitute to **HB 366**, by Representative Treesh:

On page 2, line 10, after "(a)" insert:

"***1. For the first or second offense within a five (5) year period,***"; and

On page 2, between lines 15 and 16, insert:

"***2. For the third or subsequent offense within a five (5) year period, after having consumed a quantity of alcohol sufficient to establish an alcohol concentration of 0.02 or more as measured by a test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;***"; and

On page 20, line 7, after "above" insert "***for the first or second offense within a five (5) year period or 0.02 or above for the third or subsequent offense within a five (5) year period***"; and

On pages 20 and 21, delete Section 12 in its entirety and insert in lieu thereof:

"Section 12. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 ***for the first or second offense within a five (5) year period or less than 0.02 for the third or subsequent offense within a five (5) year period***, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08 for the first or second offense within a five (5) year period***[~~0.10~~], such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08 or more for the first or second offense within a five (5) year period or 0.02 or more for the third or subsequent offense within a five (5) year period***[~~0.10 or more~~], it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

Floor Amendment No. 1 Title to **HCR 127**, by Representative Fischer:

By amending the title to read as follows: "A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study issues related to school finance."

Floor Amendment No. 1 to **HB 788**, by Representative Webb:

On page 1, line 4 after "***fees,***" by deleting "***dues,***";

On page 1, line 5 by deleting "***or on a cooperative nonprofit basis,***";

On page 1, line 17 after "***manner***" by deleting "***the check acceptance policy of the retail seller***";

On page 1, line 18 by deleting "***and***";

On page 1, after line 18 by adding

"***(2) If the retail seller uses the services of a check authorization company, the retail seller shall post in its place of business in a conspicuous location and in a clear and conspicuous manner notice that a check authorization company is used.***"

On page 1, line 19 by deleting "***(2)***" and by inserting in lieu thereof "***(3)***" and after the comma and before "***the***" by inserting "***and the retailer does not accept a check from a consumer,***";

On page 1, line 20 after "***shall***" and before "***so***" by inserting "***provide to the consumer the reason for failure to accept the check and the name***" and by deleting "***so state in its check acceptance policy and list the name and address***";

On page 1, line 21 after "***and***" and before "***shall***" by inserting "***the toll-free number established by***" and by deleting "***shall make available to a consumer the***";

On page 1, line 22 by deleting "***written policy of***" and after "***company***" and before the period by inserting "***as required by paragraph (d) subsection (1) of Section 3 of this Act***";

On page 3, line 24 after "***seller***" and before "***has***" by deleting "***or check authorization company***";

On page 3, line 25 by deleting "***Sections 1 to 5***" and inserting in lieu thereof "***Section 2***" and after "***recover***" by adding "***actual damages, plus the costs of the action.***";

On page 3, line 26 before "***the***" by adding

"***(3) If the court finds that a check authorization company has failed to comply with any provision in Sections 3 or 4 of this Act a consumer shall recover***";

On page 4, line 3 after the first comma and before "***punitive***" by inserting "***and***" and by deleting "***not less than one***";

On page 4, line 4 by deleting "***thousand dollars ($1,000) nor***" and by deleting "***for***";

On page 4, by deleting line 5 in its entirety; and

On page 4, line 6 by deleting "***deems proper***".

Floor Amendment No. 38 to the Committee Substitute to **HB 992**, by Representative J. Turner:

Beginning on page 47, line 26, after the period "(.)" by placing an open bracket around "These" and striking through the existing language and continuing through line 27; and

On page 48, lines 1 through 6 by continuing the strike through of existing language; and

On page 48, line 7, by placing a closing bracket around the period "(.)" and striking through the existing language before the period "(.)"; and

On page 48, beginning on line 12, after the period "(.)" by placing an open bracket around "If" and striking through the existing language and continuing through lines 13 through 18; and

On page 48, line 19, by placing a closing bracket around the period "(.)" and striking through the existing language before the period "(.)".

Floor Amendment No. 39 to **HB 992**, by Representative J. Turner:

On page 12, line 3, by bracketing and striking through "arbitrator or "; and

On page 16, line 6, by bracketing and striking through "arbitrator's or "; and

On page 16, line 7, by bracketing and striking through "arbitrator or "; and

On page 16, line 20, by deleting "***12***" and inserting "***13***" in its place; and

On page 17, line 2, by bracketing and striking through "arbitrator or "; and

On page 17, line 4, by bracketing and striking through "arbitrator or "; and

On page 17, line 10, by bracketing and striking through "arbitrator or "; and

On page 17, line 16, by bracketing and striking through "arbitrator or "; and

On page 18, line 10, by bracketing and striking through "arbitrator or "; and

On page 18, line 14, by bracketing and striking through "arbitrator or the "; and

On page 20, line 1, by bracketing and striking through ", arbitrators, "; and

On page 20, line 12, by bracketing and striking through "arbitrator or "; and

On page 20, line 20, by bracketing and striking through "arbitrator or "; and

On page 21, line 16 by bracketing and striking through "or arbitrator, "; and

On page 22, beginning on line 22 through line 14 on page 24, by deleting Section 7 in its entirety; and

On page 22 after line 21, by inserting the following sections and by renumbering the remaining sections accordingly:

"Section 7. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all ***known*** accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an ***administrative law judge***[~~arbitrator for benefit review~~]. The ***administrative law judge***[~~arbitrator~~] shall facilitate the exchange of information pertinent to the claim***, benefit settlement conference, and hearings*** pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

[~~(3) (a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.~~

~~(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.~~]

[~~(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.~~]

[~~(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.~~]

[~~(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.~~]

[~~(7) Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.~~]

Section 8. KRS 342.275 is amended to read as follows:

(1)[~~ Within thirty (30) days after the filing of the benefit review determination with the commissioner, any party may appeal that determination by filing a request for hearing before an administrative law judge. Proceedings before the administrative law judge shall be de novo but subject to penalties for unreasonable proceedings under KRS 342.310.~~]

[~~(2)~~] The commissioner shall promptly issue notice of the assignment of the claim to an administrative law judge, time for presentation of proof and of the time and place of ***a benefit settlement conference and*** a hearing. The ***benefit settlement conference shall be conducted by telephone or the administrative law judge may order the parties to appear. If settlement is not reached at the benefit settlement conference, the administrative law judge shall enter an order scheduling time for presentation of proof on medical and other unresolved issues, and set the matter for hearing***[~~administrative law judge may confer informally with the parties for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case~~].

(2)[~~(3)~~]The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the commissioner. The administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless extension is mutually agreed to by all parties. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute."; and

On page 32, line 9, by bracketing and striking through "or arbitrator"; and

On page 33, line 4, by placing an opening bracket before "of" and by striking through "of an", and on line 5, by striking through and placing a closing bracket after "arbitrator"; and

On page 33, lines 21 through 22, by bracketing and striking through "or arbitrator"; and

On page 34, line 2, by bracketing and striking through "arbitrator or "; and

On page 34, line 11, by bracketing and striking through "arbitrator or "; and

On page 35, line 2, by bracketing and striking through "and arbitrator "; and

On page 35, line 6, by bracketing and striking through "arbitrator or "; and

On page 35, line 8, by bracketing and striking through "arbitrator or "; and

On page 35, line 15, by bracketing and striking through "or arbitrator"; and

On page 36, line 19, by bracketing and striking through "arbitrator or "; and

On page 36, line 20, by bracketing and striking through "arbitrator or "; and

On page 36, line 25, by bracketing and striking through "arbitrator or "; and

On page 37, line 4, by bracketing and striking through "arbitrator or "; and

On page 37, line 8, by deleting "*11*" and inserting "*12*" in its place; and

On page 37, line 13, by bracketing and striking through "arbitrator or "; and

On page 37, line 22, by bracketing and striking through "arbitrator or "; and

On page 39, line 5, by bracketing and striking through "arbitrator or"; and

On page 41, line 16, by deleting *"11"* and inserting *"12"* in its place; and

On page 52, line 8, by bracketing and striking through "or arbitrator "; and

On page 52, line 10, by bracketing and striking through "or arbitrator "; and

On page 54, after line 21 by inserting the following:

"Section 16. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by *a*[~~an arbitrator,~~] court[~~,~~] or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Department for Employment Services, Cabinet for Workforce Development prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before a referee or the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before a referee or the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 17. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.

(7) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge [~~or arbitrator~~]by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge [~~or arbitrator~~]may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, [~~arbitrator,~~]or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 18. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than two (2) physicians without prior consent from the [~~arbitrator or~~]administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. The report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of the report and to cross-examine the reporting physician. The commissioner shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 19. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid, except that if the [~~arbitrator or~~]administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the [~~arbitrator or~~] administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the [~~arbitrator or~~]administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 20. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the ~~[arbitrator or]~~administrative law judge shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the ~~[arbitrator or]~~administrative law judge directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 21. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.

(3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge~~[or arbitrator]~~. This provision is remedial and shall apply to all pending and future claims.

Section 22. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to one (1) or more dependents of the deceased employee for the benefit of all the dependents entitled thereto, as determined by the ~~[arbitrator or]~~administrative law judge. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.

(2) If the dependents are a widow, widower, or other head of a family of minor children and one (1) or more minor children, it shall be sufficient for the widow, widower, or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator, or next friend of such dependents.

Section 23. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the ~~[arbitrator or]~~administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly-qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly-qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required by this subsection, shall be the same as, and in accordance with, state travel administrative regulations and standards promulgated and established pursuant to KRS Chapter 45.

(3) If an employee refuses to submit himself to or in any way obstructs the examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the ~~[arbitrator or]~~administrative law judge may require.

(5) The department shall supply forms for the report.

Section 24. KRS 342.213 is amended to read as follows:

(1) The Governor shall make all appointments to the board, appoint the administrative law judges~~[, arbitrators,]~~ and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.

(2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.

(4) The commissioner shall monitor the workload of the administrative law judges and ~~[arbitrators and]~~, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges ~~[and arbitrators]~~, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.

(5) (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of administrative law judges~~[and arbitrators]~~. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge ~~[or arbitrator,]~~or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge ~~[or arbitrator]~~shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge~~[and as an arbitrator]~~.

(b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.

(6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be

reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars ($100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 25. KRS 342.230 is amended to read as follows:

(1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner, [~~arbitrators, ~~]administrative law judges, and board members, shall be members of the classified service.

(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges [~~and arbitrators ~~]on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges[~~, arbitrators,~~] and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board[~~,~~] ***and*** the administrative law judges[~~, and arbitrators~~]; annually report the activities of the board[~~,~~] ***and the*** administrative law judges[~~, and arbitrators~~] to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not less than the salary of a member of the board.

(3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.[~~ To carry out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.~~]

(4) To ensure that the administrative law judges [~~and arbitrators ~~]perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.

(5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge[~~ or arbitrator~~]. A member of the board or an administrative law judge [~~or an arbitrator ~~]may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge[~~, an arbitrator,~~] or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

(6) Any vacancy in the term of an administrative law judge [~~or an arbitrator, ~~]which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all

scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars ($3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

[~~(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.~~

~~(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars ($2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.~~

~~(11) (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~

~~(b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~]

Section 26. KRS 342.240 is amended to read as follows:

The department shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The commissioner shall provide necessary supplies, books, periodicals, and maps and shall provide a seal for the authentication of orders, awards, or proceedings of the [~~arbitrators and~~]administrative law judges, on which shall be inserted the words "Department of Workers' Claims, State of Kentucky, official seal." The board[~~, the arbitrators,~~] and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the commissioner, all actions or proceedings against the board or a member in his official capacity, or against an [~~arbitrator or~~]administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 27. KRS 342.245 is amended to read as follows:

All proceedings of the board[~~, arbitrators,~~] and the administrative law judges shall be recorded in books kept for that purpose by the commissioner, which shall constitute a public record and shall contain an entry of each case, claim, or proceeding considered, heard or passed upon by each [~~arbitrator,~~]administrative law judge[~~,~~] and the board, with the award, finding or decisions made thereon.

Section 28. KRS 342.260 is amended to read as follows:

(1) The commissioner shall prepare administrative regulations as he considers necessary to carry on the work of the department and the work of the [~~arbitrators and~~]administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) The commissioner shall develop or adopt life expectancy tables for use in making computations for the apportionment of benefits under KRS 342.120, computation of attorneys' fees under KRS 342.320, and for use in all other situations arising under this chapter in which the calculation of a life expectancy is necessary or desirable, including the computation of assessments or reserves for self-insurers. The commissioner may adopt life tables published by the United States Department of Health and Human Services or other life tables developed by a qualified entity, as determined by the commissioner. The life tables designated by the commissioner through administrative regulation in effect as of the date of an opinion, award, or settlement approved by an [~~arbitrator or~~]administrative law judge shall apply to computations concerning that opinion, award, or settlement.

(3) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any

member thereof or any [~~arbitrator or~~]administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined those parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(4) The sheriff shall serve all subpoenas of the board[~~, arbitrators,~~] and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to the subpoena of the board or any [~~arbitrator or~~] administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(5) The Circuit Court shall, on application of the board, any member thereof, or any [~~arbitrator or~~]administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 29. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order, or decision any party may file a petition for reconsideration of the award, order, or decision of the [~~arbitrator or~~]administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in the review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make any correction within ten (10) days after submission.

Section 30. KRS 342.305 is amended to read as follows:

Any party in interest may file in the Circuit Court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the [~~arbitrator or~~]administrative law judge, or of an order or decision of the [~~arbitrator,~~]administrative law judge[~~,~~] or board, or of an award of the [~~arbitrator or~~]administrative law judge unappealed from, or of an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals, shall be modified to conform to any decision of the [~~arbitrator or~~]administrative law judge ending, diminishing, or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 31. KRS 342.310 is amended to read as follows:

(1) If any [~~arbitrator,~~]administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted, or defended them.

(2) If any [~~arbitrator,~~]administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that a party has committed acts in violation of KRS 342.335(1) or (2), that party may be ordered to make restitution for any compensation paid as a result of the commission of such acts.

Section 32. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by [~~arbitrators and~~]administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When [~~arbitrators or~~]administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner[~~, an arbitrator,~~] or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an

employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 33. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the ~~[arbitrator or]~~administrative law judge, shall be determined by the ~~[arbitrator or]~~administrative law judge except as otherwise provided in this chapter.

Section 34. KRS 342.435 is amended to read as follows:

Annually on or before the fifteenth day of December, the commissioner shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each ~~[arbitrator and]~~administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the commissioner deems proper to call to the attention of the Governor, including any recommendations he may have to make, and it shall be the duty of the commissioner to publish and distribute among employers and employees any general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to the provisions of the general laws governing public printing applicable thereto.

Section 35. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against the other person to recover damages, or proceed both against the employer for compensation and the other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against the other person to recover damages, he shall give due and timely notice to the employer and the special fund of the filing of the action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays the compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall the claim be barred by limitations, if the claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an ~~[arbitrator or]~~administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

Section 36. KRS 342.735 is amended to read as follows:

(1) The commissioner shall promulgate administrative regulations to expedite the payment of temporary total disability and medical expense benefits.

(2) The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to

speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(3) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an ~~[arbitrator or]~~administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the ~~[arbitrator or]~~administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 37. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the Labor Cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the Labor Cabinet shall be the custodian of the fund, and all moneys and securities in the fund shall be held in trust by the secretary of the Labor Cabinet and shall not be considered a part of the general funds of the state.

(2) The secretary of the Labor Cabinet is authorized to disburse moneys from the fund only upon written order of the ~~[arbitrator,]~~administrative law judge~~[,]~~ or the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.

(4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of all the amounts authorized to be paid therefrom under the authority of this subsection including reimbursement of the special fund of all liability apportioned to it and for the purposes of enforcing this liability the Labor Cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund. This provision shall apply to all pending claims upon which a final order has not been entered.

(5) In furtherance of this purpose, the Attorney General shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The Labor Cabinet shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the State Treasury shall be transferred to the uninsured employers' fund created within the Labor Cabinet pursuant to this section.

Section 38. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the ~~[arbitrator or]~~administrative law judge shall, upon his own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 39. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer; and

(2) Has not made a deposit of security, indemnity, or bond acceptable to the commissioner to secure the payment of compensation liability; and

(3) Has failed to make payment of compensation according to the terms of that award,

the award shall constitute a liquidated claim for damages against that employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the commissioner, and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against that employer in the name of the uninsured employers' fund for the collection of that award. In that action, it shall be sufficient for plaintiff to set forth a copy of the award of the ~~[arbitrator or]~~administrative law judge relative to the claim as certified by the commissioner and to state that there is due to plaintiff on account of the opinion, order, or award of the ~~[arbitrator or]~~administrative law judge a specified sum which plaintiff claims with interest. A certified copy of the award in the claim shall be attached to the complaint and shall constitute prima facie evidence of the truth of the facts therein contained.

Section 40. KRS 342.990 is amended to read as follows:

(1) The commissioner shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) to (7) of this section, or criminal penalties pursuant to subsections (8) and (9) of this section, or both.

(3) The commissioner shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the commissioner to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.

(6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.

(7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(c) Any person who violates KRS 342.020(9), 342.035(2), KRS 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the commissioner of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the commissioner within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the department pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice.

(d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense.

(e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the commissioner pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation.

(f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars ($300) shall be fined per occurrence not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars ($300) shall be fined per occurrence not more than five thousand dollars ($5,000) per individual nor ten thousand dollars ($10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each violation.

(i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) per occurrence, or both.

(j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.

(8) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense.

(d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.

(10) Fines paid pursuant to subsections (7) and (9) of this section shall be paid into the special fund.

(11) In addition to the penalties provided in this section, the commissioner and any [~~arbitrator, ~~]administrative law judge, or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

Section 41. KRS 342.0015 is amended to read as follows:

The substantive provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to any claim arising from an injury or last exposure to the hazards of an occupational disease occurring on or after December 12, 1996. Procedural provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to all claims irrespective of the date of injury or last exposure, including, but not exclusively, the mechanisms by which claims are decided and workers are referred for medical evaluations. The provisions of KRS 342.120(3), 342.125(8), 342.213(2)(e), 342.265, [~~342.270(7),~~] 342.320, 342.610(3), 342.760(4), and 342.990(11) are remedial.".

Floor Amendment No. 1 to **HB 946**, by Representative Palumbo:

On page 3, line 12 after the "***.***" by inserting "***Reimbursement shall not be granted unless a conference or meeting is scheduled to last two (2) or more days. Reimbursement shall not be granted to the employee if the conference or meeting occurs within the county where the employee resides.***".

Floor Amendment No. 40 to **HB 992**, by Representative Nunn:

On page 54, lines 12 through 21, by deleting Section 14 in its entirety.

Floor Amendment No. 1 to the House Committee Substitute to **SB 91**, by Representative Rasche:

On page 13, line 3, by deleting "***through***";

On page 13, line 4, by deleting "***the superintendent***";

On page 13, line 4, after "***notify***" and before "[~~apply to~~]" by inserting "***, through the superintendent,***".

Floor Amendment No. 41 to **HB 992**, by Representative Treesh:

On page 2, line 22, after the word "work" by inserting "***, taking into consideration the age, qualifications, and training of the employee,*** ".

Floor Amendment No. 42 to the Committee Substitute to **HB 992**, by Representative Treesh:

On page 2, line 22, after the word "work" by inserting "***, taking into consideration the age, qualifications, and training of the employee,*** ".

Floor Amendment No. 1 to the Committee Substitute to **HB 177**, by Representative Nunn:

On page 1, line 1, by deleting all text through page 38, line 1, and by inserting the following in lieu thereof:

"Section 1. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. ***These opportunities shall include, but not be limited to, the provision of telehealth by licensed health care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.***

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This seven (7) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) Chief information officer, or a designee, of the Governor's Office for Technology; and

(e) Three (3) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in Section 3 of this Act. To ensure representation of both groups, no more than two (2) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, and one (1) each in

western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 3. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) ***"Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;***

(2) "Council" means the Advisory Council for Medical Assistance;

(3)~~[(2)]~~"Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(4)~~[(3)]~~***"Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;***

(5) "Medical care" as used in this chapter means essential medical, surgical, ***chiropractic,*** dental, optometric, podiatric, ***telehealth,*** and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(6)~~[(4)]~~"Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(7)~~[(5)]~~"Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(8)~~[(6)]~~"Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(9) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;

(10)~~[(7)]~~ "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(11)~~[(8)]~~ "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(12)~~[(9)]~~ "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(13)~~[(10)]~~ "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(14)~~[(11)]~~ "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(15) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:

(a) Compressed digital interactive video, audio, or data transmission;

(b) Clinical data transmission via computer imaging for teleradiology or telepathology; and

(c) Other technology that facilitates access to health care services or medical specialty expertise.

(16) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

~~[(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;]~~

(17)~~[(13)]~~ "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient;

~~[(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.]~~

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation provided by a Medicaid-participating practitioner who is licensed in Kentucky.

(2) (a) The cabinet shall require reimbursement for a telehealth consultation at the same rate as the Medicaid program reimburses for a comparable in-person consultation. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.

(6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;

2. The quality of care as a result of telehealth consultations rendered under this section; and

3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

(7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Department for Public Health may develop programs for local health departments to participate in telehealth and to seek reimbursement for services as provided for other health care providers under KRS Chapter 205 or 304.17A.

Section 6. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

  (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

  (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

  (c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

    1. A group health plan;
    2. Health insurance coverage;
    3. Part A or Part B of Title XVIII of the Social Security Act;
    4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
    5. Chapter 55 of Title 10, United States Code;
    6. A medical care program of the Indian Health Service or of a tribal organization;
    7. A state health benefits risk pool;
    8. A health plan offered under Chapter 89 of Title 5, United States Code;
    9. A public health plan, as defined in regulations; or
    10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

  (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

  (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

  (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

  (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

  (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

  (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

  (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

  (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

  (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

- (a) Coverage only for accident, or disability income insurance, or any combination thereof;
- (b) Coverage issued as a supplement to liability insurance;
- (c) Liability insurance, including general liability insurance and automobile liability insurance;
- (d) Workers' compensation or similar insurance;
- (e) Automobile medical payment insurance;
- (f) Credit-only insurance;
- (g) Coverage for on-site medical clinics;
- (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
- (i) Limited scope dental or vision benefits;
- (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
- (k) Such other similar, limited benefits as are specified in administrative regulations;
- (l) Coverage only for a specified disease or illness;
- (m) Hospital indemnity or other fixed indemnity insurance;
- (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
- (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
- (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

- (a) Is not an eligible individual;
- (b) Is not eligible for or covered by other health benefit plan coverage;
- (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
- (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
- (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
  1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
  2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
  3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan

participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) “Index rate” means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) “Individual market” means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) “Insurer” means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups

according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) “Large group” means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) “Market segment” means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; ~~[and]~~

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250***; and***

(36) "Telehealth" has the meaning provided in Section 8 of this Act.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 2 of this Act. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.

(3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.

(4) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

(20) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education.

SECTION 9. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) A treating physician who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of medical services and in the provision of continuing medical education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) A treating dietitian or nutritionist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dietitian and nutrition services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

(1) A treating chiropractor who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of chiropractic services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A treating dentist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dental services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver

health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 13. A NEW SECTION OF KRS CHAPTER 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

(1) A treating nurse who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of nursing services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 14. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

(1) A treating respiratory care practitioner who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of respiratory care services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 15. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) A treating pharmacist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of pharmacy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) A treating psychologist or psychological associate who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other

applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of psychological services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A treating occupational therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of occupational therapy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 18. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

(1) A treating optometrist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of optometric services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 19. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

(1) A treating physical therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of physical therapy and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 20. A NEW SECTION OF KRS 335.010 TO 335.160 IS CREATED TO READ AS FOLLOWS:

(1) A treating clinical social worker who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of clinical social work services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 21. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) A treating marriage and family therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of marriage and family therapy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) A treating speech-language pathologist or audiologist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of speech-language pathology or audiology services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

Section 23. KRS 197.020 is amended to read as follows:

(1) The Department of Corrections shall:

(a) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;

(b) Prescribe the character of food and diet of the prisoners; rules for the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; and quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;

(c) Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the disposition of abandoned, lost, or confiscated property of prisoners; and

(d) Cause the administrative regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

(2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.

(3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 24. (1) The provisions of Sections 3 to 4 of this Act shall take effect on July 15, 2001, or upon approval of any federal waivers, whichever first occurs.

(2) The provisions of Sections 6 to 7 of this Act shall take effect on July 15, 2001, and shall apply to a health benefit plan that is delivered, issued, or renewed on or after that date.".

Floor Amendment No. 2 Title to **HB 177**, by Representative Nunn:

By amending the title to read as follows:

"AN ACT relating to the use of information technology in the delivery of health services.".

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 390**, by Representative Johns:

On page 27, line 3 after "***board***" and before "***in***" by inserting "***or other recognized health care professional boards***".

Floor Amendment No. 3 Title to **HB 763**, by Representative A. Arnold:

By amending the title to read as follows: "AN ACT relating to personnel administration."

Floor Amendment No. 1 to **HB 870**, by Representative Webb:

On page 1, line 21, after the word "***programs***", by inserting "***in Kentucky***".

Floor Amendment No. 4 to the Committee Substitute to **HB 763**, by Representative Alexander:

On page 14, between lines 22 and 23 by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The requirement of a high school diploma, equivalency certificate, or a passing score on the General Educational Development (GED) test in the Highway Equipment Operator series shall not apply to employees hired prior to July 1, 1999."; and

On page 14, line 23 by renumbering "Section 4" as "Section 5".

Floor Amendment No. 43 to **HB 992**, by Representative J. Turner:

On page 22, after line 21, by inserting:

"***(4) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, fines or penalties imposed under this section, or under KRS 304.12-230 for violations of prohibited unfair claims relating to workers' compensation shall not be the basis or justification of any workers' compensation rate charge or premium increase.***"

Floor Amendment No. 45 to the Committee Substitute to **HB 992**, by Representative Ratliff:

On page 58, after line 11, by inserting the following:

"Section 16. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools***, and the Pikeville College School of Osteopathic Medicine,*** to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.".

Floor Amendment No. 44 to **HB 992**, by Representative Ratliff:

On page 54, after line 21, by inserting the following:

"Section 15. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools***, and the Pikeville College School of Osteopathic Medicine,*** to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an

employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.".

Floor Amendment No. 1 to the Committee Substitute to **HB 762**, by Representative Bather:

On page 1, line 20, by inserting "***gender,***" after "***racial,***"; and

On page 2, line 2, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 2, by deleting "***or***"; and

On page 2, line 5, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 5, by deleting "***or***"; and

On page 2, line 8, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 8, by deleting "***or***"; and

On page 2, line 13, by deleting "***regarding***" and inserting "***governing***"; and

On page 2 by deleting lines 15 to 27 in their entirety and inserting the following in lieu thereof:

"***(4) The Department for Medicaid Services shall monitor adherence to the provisions of this section in accordance with its responsibility under KRS 194A.050 to enforce all state laws and all administrative regulations relating to Medicaid***"; and

On page 3, line 1, by deleting "***(7)***" and inserting "***(5)***" in lieu thereof; and

On page 5, line 9, by inserting "***,***" after "***providers***"; and

On page 5, line 9 by deleting "***or***" and inserting, after "***design***" "***, or geographic location, including urban and rural areas***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under rules previously suspended:

HB 148:	Representative Hoffman
HB 324:	Representative Hoffman
HB 521:	Representative Hoffman
HB 522:	Representative Hoffman
HB 745:	Representative Hoffman
HB 825:	Representatives Hoffman, Marzian
HB 839:	Representative Bowling
HB 890:	Representative Stewart
HB 959:	Representative Webb
HJR 135:	Representative Cox

Announcements

The following meetings were announcements:

State Government, March 13, 2000, Room 129

Judiciary, March 10, 2000, upon adjournment, Room 149

Elections, Constitutional Amendments, and Intergovernmental Affairs, March 13, 2000, 1:00 p.m., Room 149

Natural Resources and Environment, March 13, 2000, 1:00 p.m., Room 131

Budget Review Subcommittee on Transportation, March 10, 2000, 1:00 p.m., Room 113

Local Government, March 13, 2000, 1:00 p.m.

Appropriations and Revenue, March 10, 2000, 1:30 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 13, 2000.

The motion that the House adjourn until 2:00 p.m., March 13, 2000, was adopted by voice vote.

MARCH 13, 2000

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Representative Tom Kerr, Kenton County.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Walton.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 10, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 279, SB 289**

Education: **HR 153, SB 280**

Health and Welfare: **SB 294**

Judiciary: **SB 263**

Natural Resources and Environment: **SB 21, SB 290**

State Government: **SB 2, SB 12, SB 87, SB 134, SB 175**

Tourism, Development, and Energy: **HCR 154**

Senate Message

Announcing passage of **SB 260, SB 261, SB 275, SB 309, SB 315, SB 226, SB 331, SB 336, SB 339, SB 351, SB 383, SJR 107, SCR 111,** and **SCR 113**. (Time: 2:10 p.m.)

Message in regard to **HB 330**: The Senate has passed **HB 330** with Senate Committee Amendments and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Calendar

HB 1014, SB 247, HB 502, HB 528, HB 930, HB 1010, HCR 139, HB 895, HB 297, HB 762, HB 980, HB 1012, HR 150, SB 51, SB 100, SB 111, SB 174, SB 186, SB 212, SCR 39, HB 289, HB 789, HB 796, and **HB 919** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report of Committees

The Committee on Judiciary reported **HB 446** and **HB 920,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 446, AN ACT relating to property affected by actions of state agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) The intent of Sections 1 to 7 of this Act is to require state agencies to evaluate proposed government actions regulating

the use of private property that may result in a constitutional taking of private property, in order to protect the rights of private property owners and to avoid unnecessary burdens on public treasuries and unwanted interference with private property rights.

(2) As used in Sections 1 to 7 of this Act:

(a) "State agency" means any officer, agency, board, commission, department, or similar body of the executive branch of state government;

(b) "Constitutional taking" or "taking" means the taking of private property by government action in a manner or for a purpose requiring compensation to the owner of that property because of the requirements of either:

1. The fifth or fourteenth amendment to the Constitution of the United States; or

2. Section 13 or 242 of the Constitution of Kentucky;

(c) "Diminution in value" means a reduction in fair market value of real property due to government action;

(d) "Fair market value" means the fair market value on the effective date of the government action:

1. Equal to the full extent of a property owner's loss, including business losses arising from a taking whether the taking is by physical occupation or through regulations, exaction, or other means; and

2. Including compounded interest calculated from the date of the taking until the date the agency renders payment;

(e) "Government action" means:

1. A proposed rule, policy, or administrative regulation that, if adopted or enforced, impedes the use of property or the exercise of property interests or significantly interferes with investment-backed expectations;

2. Proposed licensing or permitting conditions, requirements, or limitations on the use of private property; and

3. Required dedications or executions of private property;

(f) "Government action" does not include:

1. The formal exercise of the power of eminent domain pursuant to KRS Chapter 416 or the purchase of real property by state agencies;

2. The forfeiture or seizure of private property by a law enforcement agency as evidence of crime or of a criminal conviction of a violation of the law;

3. An order issued by a state agency or a court because of a violation of a law;

4. The discontinuance of a government program; or

5. Regulation of hunting and fishing seasons by the Department of Fish and Wildlife Resources under KRS Chapter 150;

(g) "Owner" means the owner of the real property or the possessor of the property or rights in the property that is directly and primarily subject to the government action, guidelines, policy, statute, regulation, rule, order, or ordinance at the time the permit, license, authorization, or governmental permission is denied or suspended;

(h) "Private property" means real property, or improvements to real property, not owned by the federal government, the Commonwealth of Kentucky, or a state agency, and includes:

1. Real property, whether vested or unvested, including:

a. Estates in fee, life estates, estates for years, or otherwise;

b. Inchoate interests in real property, such as remainders and future investments;

c. Personalty that is affixed to or appurtenant to real property;

d. Easements;

e. Leaseholds;

f. Recorded liens; and

g. Contracts or other security interests in, or related to, real property;

2. The right to use water or the right to receive water;

3. Rents, issues, profits of land, including minerals, timber, fodder, crops, oil, and gas, coal, or geothermal energy;

4. Property rights provided by, or memorialized in, a contract, except that these rights shall not be construed to prevent the state from prohibiting the formation of contracts deemed to harm the public welfare or to prevent the execution of contracts for exigencies that present immediate or reasonably foreseeable threats or injuries to life or property;

5. Any interest understood to be property based on custom, usage, common law, or mutually reinforcing understanding sufficiently well-grounded in law to back a claim of interest; and

(i) "Inverse condemnation" means the process by which property owners pursue their rights to just compensation in a situation in which the government has not formally condemned the property of the owners.

SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) Before a state agency takes any government action specified under subsection (2)(e) of Section 1 of this Act, the agency shall prepare a written assessment and analysis of the constitutional taking implications of the action. The written assessment and analysis shall be completed no later than ninety (90) days following the proposed government action, or after the state agency has actual knowledge that an event constituting a government action has occurred. The agency shall deliver copies of the assessment to the secretary of the Finance and Administration Cabinet, the Legislative Research Commission, and the affected property owners.

(2) The state agency's assessment shall:

(a) Assess the likelihood that the government action may result in a constitutional taking;

(b) Clearly and specifically identify the purpose for the government action;

(c) Explain the reasons the government action is necessary to advance that purpose, and the benefits of the action to society;

(d) Explain the reasons no alternative action is available that would achieve the agency's goal while reducing the impact upon the private property owner;

(e) Estimate the potential cost to the government if a court were to determine that the action constitutes a constitutional taking;

(f) Identify the source of payment within the agency's budget for any compensation that may be ordered as a result of the taking; and

(g) Certify that the benefits of the government action exceed the cost estimated under paragraph (e) of this subsection.

(3) The state agency's assessment shall not be required for any proposed licensing or permitting action unless requested by a permittee or licensee or holder of a property interest to the private property which is the direct subject of the government action.

(4) The state agency's written assessment and analysis shall be limited only to the private property which is the direct subject of the government action. Adjacent private property shall not be subject to the state agency's written assessment and analysis.

(5) Owners of private property shall not be required to provide or pay for any studies, maps, plans, or reports that may be necessary for the agency's use in preparing the assessment and analysis as required by this section.

(6) A state agency that proposes a government action that may result in a taking, as indicated by the written assessment, shall update the assessment if the government action is not adopted before the ninetieth day after the date copies of the assessment are delivered as required by subsection (1) of this section.

(7) If there is an immediate threat to public health and safety that is an emergency and requires an immediate response by the state agency, the assessment required by subsections (1) and (2) of this section may be made after the emergency ceases to exist. The state agency shall set forth in the assessment the basis for its determination that an emergency existed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) No agency shall take private property except for public purpose and with just compensation to the property owner. A property owner shall receive just compensation if:

(a) As a consequence of a decision by any agency, private property, whether all or in part, has been physically invaded or taken for public use without the consent of the owner; and

(b) 1. This action does not substantially advance the stated governmental interest to be achieved by the legislation on which the action is based;

2. This action diminishes the owner's right to use any portion of the property as a condition for the granting of a permit, license, variance, or any other agency action;

3. This action results in the property owner being deprived, either temporarily or permanently, of all or substantially all economically beneficial or productive use of the property affected by the agency action without a showing that the deprivation inheres in the title itself; or

4. Under any other circumstances where a taking has occurred within the meaning of the fifth amendment of the United States Constitution.

(2) All awards or judgments for a plaintiff, including the recovery for court costs, attorney's fees, and reasonable expenses,

shall be paid out of funds of the agency responsible for the agency action. Any awards resulting from this section shall be made within thirty (30) days if no further review or appeal of the award is pending. When more than one (1) agency is involved, the court shall determine the proportion each agency shall be required to contribute to the compensation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

An owner of private property who asserts that a state agency has failed to comply with Section 2 of this Act may initiate a proceeding in Circuit Court in the county where the real property is located to seek a determination as to the agency's compliance with Section 2 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) A Circuit Court in a county where the real property is located shall have exclusive jurisdiction of any constitutional taking claim, and the owner shall be entitled to trial by jury. Except as provided in subsection (2) of this section, an owner who prevails shall receive court costs and attorney's fees in addition to:

(a) The diminution in value of the property, in which case the owner shall retain title; or

(b) The fair market value of the property, in which case the owner shall transfer title of the property to the government unit, upon payment of the fair market value.

(2) The cause of action for a constitutional taking shall be ripe for adjudication when the action is potentially applicable to the private property. If the action provides an opportunity to obtain a variance, special exception, or waiver, the owner need only submit and have rejected one (1) reasonable application before the constitutional taking is deemed ripe for adjudication. An owner need not appeal an order or determination of a state agency nor shall multiple applications need to be filed before the cause of action for a constitutional taking is deemed ripe for adjudication. An application shall be deemed rejected if the state agency unreasonably delays review of the application or imposes burdensome conditions on approval of the application. If the owner claims that multiple actions are cumulatively causing the constitutional taking, the owner need only pursue one (1) application, variance, special exception, or waiver of one (1) action for the cause of action to be deemed ripe for adjudication.

(3) If, prior to final judgment, the agency reverses its government action, the owner shall be awarded reasonable costs, including attorney's fees, incurred in connection with the legal action, together with any economic losses sustained by reason of the government action that gave rise to the legal action.

(4) (a) The owner shall receive no damages if the use or proposed use of real property is a public nuisance.

(b) The government unit shall bear the burden of proof with respect to this affirmative defense.

SECTION 6. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

After a government action is determined to be a constitutional taking, the effect of the action on the fair market value of private property shall be reflected in the assessed valuation of the property for purposes of taxation, levies, and similar purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

This Act shall be called "The Kentucky Private Property Protection Act."

HB 920, AN ACT relating to fines, costs, fees, and other court-generated revenues and their disposition.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***one hundred dollars ($100)***~~[seventy-five dollars ($75), which shall include the fee mandated in KRS 346.185]~~.

(2) ***The taxation of court costs against a defendant, upon conviction, shall be mandatory and the costs shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition, unless the court makes written findings that the defendant is totally unable to pay court costs and will be totally unable to pay the court costs in the foreseeable future. These findings shall not be made until after a hearing has been held and the court determines, in accordance with KRS 534.060, that the defendant is indigent and will be unable to pay court costs at any time in the foreseeable future***~~[Except as provided in KRS 346.185, taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court]~~.

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a)	Preparing a certification	$1.00
(b)	Preparing a copy of a document (per page)	$0.15

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for

in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 2. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be ***one hundred dollars ($100), regardless of whether the fine is prepayable or not prepayable***[~~:~~

~~(a) For an offense for which prepayment is permitted~~
~~under KRS 189.394, 431.451, or 431.452 and for which~~
~~prepayment has been made prior to trial as required by law .... $42.00~~

~~(b) For an offense for which prepayment is not permitted or~~
~~has not been made .... $67.00~~

~~(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185~~].

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3)[~~Additional costs shall be assessed in District Court criminal matters as follows:~~

~~(a) Preparing an attestation .... $0.50~~
~~(b) Preparing a certification .... $1.00~~
~~(c) Preparing a copy of a document (per page) .... $0.25~~

~~(4)~~] Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory***. Court costs shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition, unless the court makes written findings that the defendant is totally unable to pay the court costs in the foreseeable future. These findings shall not be made until after a hearing has been held and the court determines, in accordance with KRS 534.060, that the defendant is indigent and will be unable to pay court costs at any time in the foreseeable future***[~~ and shall not be probated or suspended~~].

(4)[~~(5)~~]The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.

(5)[~~(6)~~]The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.

(6)[~~(7)~~]The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The circuit clerk shall charge the following fees for additional services rendered in criminal cases in the District Court:

(1) Preparing an attestation $0.50
(2) Preparing a certification $1.00
(3) Preparing a copy of a document (per page) .... $0.35.

Section 4. KRS 149.180 is amended to read as follows:

Whenever possible, the secretary for natural resources and environmental protection shall collect the costs of firefighting done and approved as provided in KRS 149.160, from the person responsible for the origin of the fire by his negligence or intent. The recovered costs shall be deposited in a special fund in the Natural Resources and Environmental Protection Cabinet. The recovered costs shall be repaid to the county in which the costs were incurred, if such county has fully paid its annual assessment to the statewide system as provided for in KRS 149.540 for the year in which the fire suppression costs were incurred. If a county is not eligible to receive the recovered costs, the money shall be used by the Division of Forestry to improve fire protection services. The funds so repaid to the county shall be placed in the county forest fire protection fund provided for in KRS 149.590. Any money in the Natural Resources and Environmental Protection Cabinet's special fund upon July 15, 1998, that were not repaid to a county for having failed to fully pay its annual assessment, shall be used by the Division of Forestry to improve fire protection services. In the event the suppression cost is not collected, the Commonwealth's attorney of the county in which the fire occurred shall institute and prosecute the necessary proceedings. ***Costs assessed under this section shall be ordered to be paid***

directly to the cabinet. The court shall not direct that the costs be paid through the circuit clerk.

Section 5. KRS 149.430 is amended to read as follows:

(1) If any forest fire shall originate as a result of the violation by any person of any provision of KRS 149.360 to 149.430, such person shall be, in addition to the penalty prescribed under KRS 149.991, liable to the state and to each county for the full amount of all expenses incurred by the state and county respectively in suppressing each fire, such amounts to be recoverable by action brought by the secretary for natural resources and environmental protection in the name of the Commonwealth on behalf of the Commonwealth and by the county attorney on behalf of the county.

(2) In addition to any penalty pursuant to KRS 149.991, any person violating any of the provisions of KRS 149.360 to 149.430 shall be answerable in damages to any persons suffering such damage for the cost incurred in the suppression of any fire resulting from such violation and for damage to property resulting from such fires.

(3) Damages assessed under this section shall be ordered to be paid directly to the Natural Resources and Environmental Protection Cabinet or to any other person or organization specified by the court. The court shall not direct that the damages be paid through the circuit clerk.

Section 6. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.445, 150.485, 150.600, 150.630, 150.660, 150.450(1), 150.470, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. ***Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.***

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. ***Costs assessed for the restoration of wildlife under this section shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.***

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. ***Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk.*** Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. ***Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.***

Section 7. KRS 177.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 177.230 to 177.310 shall be guilty of a misdemeanor and upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5) nor more than one hundred dollars ($100) or by imprisonment in the city or county jail for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment.

(2) Any person who willfully violates any of the provisions of KRS 177.841 to 177.890 shall, in addition to any other penalty herein provided, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) In addition to any other penalty provided by KRS 177.910 to 177.950, any person violating any order or provision of KRS 177.910 to 177.950 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day of violation of the provisions of KRS 177.910 to 177.950 shall constitute a separate offense.

(4) Any person who violates the weight provisions of KRS 177.9771 shall, upon conviction, be fined in an amount equal to three cents ($0.03) per pound when the excess is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds but is less than four thousand (4,000) pounds, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds but is less than five thousand (5,000) pounds, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds. In no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(5) Any person who transports coal in violation of the weight provisions of KRS 189.221 and 189.222 and does not have a current decal or is not transporting coal under a valid cooperative agreement within KRS 177.9771(4)(f), shall, in addition to any applicable penalty prescribed by law, be fined five hundred dollars ($500) and be required to purchase the decal described in KRS 177.9771(4). ***Payments directed to be made under this subsection relating to purchase of decals shall be made directly to the officer selling the decals. The court shall not direct that the payments be made through the circuit clerk.***

(6) Any person who violates the provisions of KRS 177.305 shall be fined not less than twenty dollars ($20) nor more than

one hundred dollars ($100) for each offense.

Section 8. KRS 189.2329 is amended to read as follows:

(1) A person shall not intentionally destroy, remove, injure, or deface a temporary traffic control device erected for the purpose of enhancing traffic safety or worker safety in a highway work zone. A temporary traffic control device shall include, but not be limited to, a cone, tubular marker, delineator, warning light, drum, barricade, sign, sign truck, arrow board, or other device specified in an approved traffic control plan or by an administrative regulation promulgated by the cabinet pursuant to KRS Chapter 13A.

(2) A person who violates the provisions of this section shall, upon conviction, in addition to any other penalty established by statute, be sentenced to pay fifty dollars ($50) for each temporary traffic control device that the person destroyed, removed, injured, or defaced, and the person shall make restitution to the owner of the temporary traffic control device.~~[All funds collected pursuant to this subsection shall be deposited in the highway work zone safety fund established pursuant to KRS 189.394.]~~

(3) Restitution payments to owners of temporary traffic control devices required to be made under subsection (2) of this section shall be paid directly to the owner of the device as specified by the court. The court shall not direct that the payments be made through the circuit clerk.

Section 9. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed 15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

[~~(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.~~

~~(6) Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.475.~~]

(5)[~~(7)~~]If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

[~~(8) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.~~]

Section 10. KRS 211.504 is amended to read as follows:

(1) The revenues received from the ***appropriations of the General Assembly***[~~additional penalties imposed by KRS 189.394(5) and the penalties imposed for violations of KRS 189.125~~] shall be credited to the spinal cord and head injury research trust fund which is hereby created.

(2) Federal funds or other funds which may be made available to supplement or match state funds for spinal cord and head injury research programs provided for by KRS 211.500 to 211.504 shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the spinal cord and head injury research trust fund shall be used to finance the spinal cord and head injury research programs authorized under the provisions of KRS 211.500 to 211.504 and for the operation of the Kentucky Spinal Cord and Head Injury Research Board. Funds for research shall only be used for spinal cord and head injury research undertaken by the University of Kentucky or University of Louisville.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, but any surplus shall be included in the budget considered and approved by the board for the ensuing period.

Section 11. KRS 346.185 is amended to read as follows:

(1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board.[~~ In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of twenty dollars ($20). This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer, to be deposited in the fund.~~] Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government;[~~ payments by the defendant pursuant to subsection (1) of this section~~] and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the Crime Victims' Compensation Board.

[~~(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the State of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.~~]

Section 12. KRS 431.100 is amended to read as follows:

(1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2)[~~ Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse,~~

~~and which, effective July 1, 1987, shall be used solely by the Cabinet for Health Services for the provision of treatment and counseling programs for alcoholics.~~

~~(3) Fines for violation of KRS 512.070 shall be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.~~

~~(4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.~~

~~(5)~~] The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 13. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

  (a) Seeking employment; or

  (b) Working at his employment; or

  (c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

  (d) Attendance at an educational institution; or

  (e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Department for Employment Services, Cabinet for Workforce Development which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be ***paid directly to the jailer***[~~collected by the District Court~~] and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) ***The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes***[~~Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the District Court on a monthly basis for the following purposes and in the order stated~~]:

  (a) The board of the prisoner and transportation costs incurred by the county;

  (b) Support of the prisoner's dependents, if any;

  (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

  (d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court ***shall not direct that any payment authorized under this section be paid through the circuit clerk***[~~may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. The order shall remain in force until rescinded by the District Court~~].

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 14. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500) per year.

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500) per year, except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be ***paid directly by the defendant to the person or agency specified by written order of the court. The court shall not direct that any fee fixed under this section be paid through the circuit clerk***~~[collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section]~~.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In a city, county, charter county, or an urban-county government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county, city, charter county, or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation

and work release program of a county, city, charter county, or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) per year. All sums paid by the defendant under this subsection shall be paid into the general fund of the county, city, charter county, or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this ***section shall be paid directly by the defendant to the Division of Probation and Parole or to the unit of local government directed by the court by written order. The court shall not order the payments to be made through the Circuit Clerk***[~~subsection shall be collected by the circuit clerk of the county or urban-county involved~~]. The adult misdemeanant probation and work release program of the county, city, charter county, or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by ***it***[~~the circuit clerk~~], and report delinquencies to the court.

Section 15. KRS 439.570 is amended to read as follows:

(1) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to arrest or detention by a probation or parole officer under the same circumstances as Kentucky probationers or parolees. The probation or parole officer shall immediately notify the sending state through the interstate compact of the arrest or detention of the person in question, setting forth the reasons for the arrest or detention.

(2) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to the payment of a supervision fee as established in KRS 439.315 and the payment of a drug testing and substance abuse treatment fee as conditions of supervision imposed by the Division of Probation and Parole. Failure to pay the required supervision fee or drug testing and substance abuse treatment fee is grounds for the termination of supervision or shall subject the person to the initiation of revocation proceedings under the same circumstances as set forth in KRS 439.315. For purposes of implementing KRS 439.315, the Division of Probation and Parole shall be the releasing authority.

(3) Fees and costs specified to be paid in this section shall be paid directly to the Division of Probation and Parole or to the person or agency directed in writing by the Division of Probation and Parole. Neither the Division of Probation and Parole or a court shall order the payments to be made through the circuit clerk.

Section 16. KRS 439.575 is amended to read as follows:

(1) There is hereby created a program for prerelease probation of inmates confined in correctional facilities under the jurisdiction of or under contract to the Department of Corrections.

(2) Any inmate who is in a prerelease program or eligible for a prerelease program as specified by administrative regulations of the Department of Corrections may apply to the sentencing court for prerelease probation.

(3) The court, upon favorable recommendation of the Department of Corrections, may place the inmate on probation under those terms and conditions the court deems necessary, which may include but not need to be limited to those specified in KRS 533.030.

(4) In particular, the court may require that an inmate placed on prerelease probation remain in a half-way house approved by the Department of Corrections and that the probationer pay the cost of his or her lodging in the half-way house and the costs of probation supervision in accordance with applicable statutes for probation supervision and persons granted work release from jail. ***Costs for lodging in a half-way house or other facility approved by the Department of Corrections shall be paid by the defendant directly to the half-way house at the rate specified by written order of the Department of Corrections. Costs for probation supervision shall be paid by the defendant directly to the Division of Probation and Parole or other agency approved by the court by written order. The Department of Corrections, the Division of Probation and Parole, or the court shall not order any payments to be made through the circuit clerk.***

(5) An inmate placed on prerelease probation shall no longer be considered as an inmate of the Department of Corrections but shall be considered as a defendant placed on probation, subject to supervision by the Division of Probation and Parole, or other agency approved by the court, and the orders of the court.

(6) A person placed on prerelease probation by the court who violates the conditions of his or her probation may be dealt with by the court in the same manner as any other person who violates the conditions of probation.

(7) The period of probation under this section shall not exceed the maximum expiration date of the inmate applying for the probation.

Section 17. KRS 532.032 is amended to read as follows:

(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and KRS 439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.

(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.

(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.

(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.

(5) Restitution payments ordered under this section shall be paid by the defendant directly to the person or organization

specified by written order of the court, or by the Parole Board, as appropriate. Neither the court nor the Parole Board shall order any payments to be made through the circuit clerk.

Section 18. KRS 532.160 is amended to read as follows:

(1) The sentencing court may issue a criminal garnishment order for all fines under KRS Chapter 534 or KRS 346.185 and for court costs, restitution, and reimbursement charges in this chapter.

(2) A criminal garnishment applies to any of the following:

(a) A convicted person's earnings as defined in KRS 427.005;

(b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;

(c) Money that is held by a garnishee on behalf of a convicted person;

(d) The convicted person's personal property that is in the possession of a garnishee; or

(e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.

(3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.

(4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.

(5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.

(6) The court shall order payments made under this section to be paid by the defendant directly to the person or organization specified by written order of the court. The court shall not order payments of an order of criminal garnishment to be made through the circuit clerk.

Section 19. KRS 532.220 is amended to read as follows:

The conditions of home incarceration shall include the following:

(1) The home incarceree shall be confined to his home at all times except when:

(a) Working at approved employment or traveling directly to and from such employment;

(b) Seeking employment;

(c) Undergoing available medical, psychiatric, or mental health treatment or approved counseling and after care programs;

(d) Attending an approved educational institution or program;

(e) Attending a regularly scheduled religious service at a place of worship; and

(f) Participating in an approved community work service program;

(2) Violation of subsection (1) of this section may subject the home incarceree to prosecution under KRS 520.030 (escape);

(3) The home incarceree shall conform to a schedule prepared by a designated officer of the supervising authority specifically setting forth the times when he may be absent from the home and the locations where he may be during those times;

(4) The home incarceree shall not commit another offense during the period of time for which he is subject to the conditions of home incarceration;

(5) The home incarceree shall not change the place of home incarceration or the schedule without prior approval of the supervising authority;

(6) The home incarceree shall maintain a telephone or other approved monitoring device in the home or on his person at all times;

(7) Any other reasonable conditions set by the court or the supervising authority including:

(a) Restitution under KRS 533.030;

(b) Supervision fees under KRS 439.315; and

(c) Any of the conditions imposed on persons on probation or conditional discharge under KRS 533.030(2); and

(8) A written and notarized consent agreement shall be filed with the court by every adult who will share the offender's home during the term of home incarceration.

(9) Any restitution, supervision fee, or other monetary condition shall be paid by the defendant directly to the person or organization specified by the court by written order. The court shall not order any restitution payment, supervision fee, or other monetary condition to be paid through the circuit clerk.

Section 20. KRS 532.352 is amended to read as follows:

(1) The sentencing court may order a person who is sentenced to a term of incarceration for any nonstatus juvenile offense,

moving traffic violation, criminal violation, misdemeanor, or Class D felony offense to reimburse the state or local government for the costs of his incarceration. The reimbursements paid under this subsection shall be credited to the local government sinking fund.

(2) The sentencing court shall determine the amount of incarceration costs to be paid based on the following factors:

(a) The actual per diem, per person, cost of incarceration;

(b) The cost of medical services provided to a prisoner less any copayment paid by the prisoner; and

(c) The prisoner's ability to pay all or part of his incarceration costs.

(3) Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer or to the Department of Corrections in the amount specified by written order of the court. The court shall not order reimbursement of incarceration costs to be paid through the circuit clerk.

Section 21. KRS 532.356 is amended to read as follows:

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:

(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and

(b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.

(2) Sanctions imposed by the sentencing court shall become a judgment of the court. ***Reimbursement of incarceration costs shall be paid by the defendant directly to jailer or to the Department of Corrections in the amount specified by written order of the court. Restitution shall be paid by the defendant directly to the victim of the crime as in the amount specified by written order of the court. The court shall not order reimbursement of incarceration costs or restitution to be paid through the circuit clerk.***

Section 22. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(3) In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:

(a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;

(b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:

(a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;

(b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or

(c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.

(5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.

(6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:

(a) To a halfway house for no more than twelve (12) months;

(b) To home incarceration with or without work release for no more than twelve (12) months;

(c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;

(d) To a residential treatment program for the abuse of alcohol or controlled substances; or

(e) To any other specified counseling program, rehabilitation or treatment program, or facility.

(7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.

(8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:

(a) A defendant sentenced to a halfway house shall:

1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;

2. Pay restitution during the term of probation; and

3. Have no contact with the victim of the defendant's crime;

(b) A defendant sentenced to home incarceration shall:

1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;

2. Pay restitution during the term of home incarceration;

3. Enter a treatment program, if appropriate;

4. Pay all or some portion of the cost of home incarceration as determined by the court;

5. Comply with other conditions as specified; and

6. Have no contact with the victim of the defendant's crime;

(c) A defendant sentenced to jail with community service shall:

1. Pay restitution during all or some part of the defendant's term of probation; and

2. Have no contact with the victim of the defendant's crime; or

(d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:

1. Undergo mandatory drug screening during term of probation;

2. Be subject to active, supervised probation for a term of five (5) years;

3. Undergo aftercare as required by the treatment program;

4. Pay restitution during the term of probation; and

5. Have no contact with the victim of the defendant's crime.

(9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.

(10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030*(5)*~~[(6)]~~.

(11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.

(12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's

compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.

(13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.

(14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.

(15) ***Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer or to the Department of Corrections in the amount specified by written order of the court. Restitution and other payments ordered to be made by the defendant shall be paid in the amount specified by the court by the defendant directly to the person or organization specified in a written order of the court. The court shall not order any payment of incarceration costs, restitution, or other cost to be paid by the defendant, to be paid through the circuit clerk.***

(16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 23. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation. ***When setting conditions under this subsection the court shall not order any defendant to pay incarceration costs, restitution, or any other cost permitted to be ordered under Section 22 of this Act, or other statute to be paid by the defendant, to be paid through the circuit clerk.***

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.

(3) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(4) The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a felony nor two (2) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a misdemeanor. Upon completion of the probationary period, probation with an alternative sentence, or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation, probation with an alternative sentence, or conditional discharge has not been revoked.

(5) Notwithstanding the fact that a sentence to probation, probation with an alternative sentence, or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 24. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be ***paid***~~[collected by the circuit clerk, held in an agency account, and disbursed,]~~ on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(b)~~[The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;~~

~~(c)]~~ When a defendant fails to make restitution ordered to be paid~~[through the circuit clerk]~~, the ***person or organization to which the restitution was ordered paid***~~[circuit clerk]~~ shall notify the court; and

(c)~~[(d)]~~An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) ***When imposing testing for controlled substances or alcohol, restitution, or other fees and payments authorized by this section or other statute to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk***~~[In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.~~

~~(5) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of probation or conditional discharge of a sentence of detention or imprisonment for a drug or alcohol related offense, to make one (1) payment either to Drug Abuse Resistance Education (D.A.R.E.) or to any treatment or prevention program for drug or alcohol abuse that a local government administers, refers individuals to, or contracts to administer, in an amount not to exceed the amount of any fine which also could have been imposed for the offense]~~.

(5)~~[(6)]~~When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6)~~[(7)]~~When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this

section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 25. KRS 533.254 is amended to read as follows:

(1) The provisions of KRS 533.020 relating to the period of probation shall, in so far as possible, be applicable to the period of pretrial diversion except that supervision of the participants in the programs shall be done by the Division of Probation and Parole.

(2) The provisions of KRS 533.030 relating to conditions of probation and restitution shall, in so far as possible, be applicable to pretrial diversion. Restitution shall be ordered in all cases where a victim has suffered monetary damage as a result of the alleged crime. Restitution to the state or the victim, or both, may be ordered in any pretrial diversion program. ***When imposing restitution, the court shall order the defendant to make payments in an amount specified by written order of the court directly to the person or organization specified in the court order. The court shall not order restitution or other payments to be made through the circuit clerk.***

Section 26. KRS 534.045 is amended to read as follows:

(1) Pursuant to a conviction of a misdemeanor, including traffic offenses, where a person is sentenced to incarceration in the county jail, the District Court may assess a reimbursement fee to help defray the expenses of the prisoner's room and board. The reimbursement fee shall not exceed twenty-five percent (25%) of the prisoner's gross daily wages or forty dollars ($40) per day, whichever is less. All moneys shall be ***paid directly to the jailer***~~[collected by the District Court]~~ and paid to the county, urban-county, or charter county treasury for use on the jail as provided in KRS 441.206.

(2) In determining whether a reimbursement fee as described in subsection (1) of this section is to be assessed, and in establishing the amount of the fee, the court shall consider evidence relevant to the prisoner's ability to pay the fee but shall not consider as evidence the following:

  (a) Joint ownership, if any, that the prisoner may have in real property;

  (b) Joint ownership, if any, that the prisoner may have in any assets, earnings, or other sources of income; and

  (c) The income, assets, earnings, or other property, both real and personal, that might be owned by the prisoner's spouse or family.

(3) After considering all relevant evidence to the issue of the prisoner's ability to pay, the court shall enter as part of its judgment the amount of the reimbursement fee, if any, that shall be paid by the prisoner during his period of incarceration in the county jail. The fee shall bear a reasonable relationship to the person's income. Upon petition by the prisoner affected by the order, the amount may be modified to reflect any changes in the financial status of the prisoner. In any appeal that might be taken from the conviction, the amount of the reimbursement fee may be challenged.

(4) If the person sentenced to jail is released in accordance with the provisions of KRS 439.179 and is subject to the provisions of KRS 439.179(4), the payment of the reimbursement fee shall be suspended so long as the person is gainfully employed.

(5) The court, when imposing any payment authorized by this section, shall order the defendant to make the payment to the named officer, person, or organization. The court shall not order any payment authorized by this section to be made through the circuit clerk.

Section 27. KRS 635.085 is amended to read as follows:

(1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

  (a) For a felony, not to exceed five hundred dollars ($500);

  (b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and

  (c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility or juvenile holding facility. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

[~~(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.~~]

Section 28. KRS 24A.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section all fees and costs collected pursuant to KRS 24A.170 (1) shall be deposited in the general fund of the State Treasury.

(2) Fees consisting of reimbursement for incidental direct outlays, including, but not limited to, postage and legal advertising, may be retained by the clerk and expended for these purposes in accordance with relevant directives of the Administrative Office of the Courts.

(3) Additional costs in District Court civil cases authorized by subsection (2) of KRS 24A.170 shall be paid to the sheriff or other officer serving the process.

(4) Costs and additional costs authorized by subsections (1), (2), (3), (4), (5) and (6) of KRS 24A.175 shall be placed in the general fund of the State Treasury and may be appropriated as provided by law.

(5) The moneys authorized by subsection ***(6)***[~~(7)~~] of KRS 24A.175 shall be paid monthly to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092.

(6) Filing fees in civil actions shall be recoverable as costs.

Section 29. KRS 441.685 is amended to read as follows:

(1) There is created and established a Kentucky Local Correctional Facilities Construction Authority fund which shall consist of the following:

(a) Rentals received under leases made by the authority pursuant to KRS 441.625 to 441.695;

(b) Appropriations by the General Assembly;

(c) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;

(d) Moneys collected and deposited in the State Treasury as provided by KRS 24A.175***(5)***[~~(6)~~]; and

(e) All interest earned on investments made by the state from moneys deposited in this fund.

(2) Moneys accruing to this fund shall be deposited by the State Treasurer in the fund's trust and agency account, and shall be invested by the state for the benefit and use of the authority, pending their application to the expenses of the authority and to payments of interest and principal of bonds, notes and other obligations of the authority. Notwithstanding the provisions of the foregoing sentence, at such time or times as the moneys contained in the fund are sufficient to pay the principal on all bonds, notes and obligations of the authority that would become due in the next ensuing twelve (12) month period, the authority may use moneys in the fund in excess thereof for such purposes as provided for in KRS 441.625 to 441.695.

Section 30. The following KRS section is repealed:

26A.150 Collection and forwarding of crime victim compensation fee.

431.102 Service fee on certain misdemeanor convictions.

Section 31. This Act takes effect August 1, 2000.

The Committee Substitute No. 1 to **HB 920** is as follows:

HB 920, AN ACT relating to fines, costs, fees, and other court-generated revenues and their disposition.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***one hundred dollars ($100)***[~~seventy-five dollars ($75), which shall include the fee mandated in KRS 346.185~~].

(2) ***The taxation of court costs against a defendant, upon conviction, shall be mandatory and the costs shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition, unless the court makes written findings that the defendant is totally unable to pay court costs and will be totally unable to pay the court costs in the foreseeable future. These findings shall not be made until after a hearing has been held and the court determines, in accordance with KRS 534.060, that the defendant is indigent and will be unable to pay court costs at any time in the foreseeable future***[~~Except as provided in KRS 346.185, taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court~~].

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a) Preparing a certification $1.00

(b) Preparing a copy of a document (per page) .... ***$0.35***[~~$0.15~~]

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay ***the entire one hundred dollars ($100) from each court cost collected under subsection (1) of this subsection to the court cost distribution fund established in Section 32 of this Act***[~~five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff~~].

Section 2. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be ***one hundred dollars ($100), regardless of whether the fine is prepayable or not prepayable***[~~:~~

~~(a) For an offense for which prepayment is permitted~~

~~under KRS 189.394, 431.451, or 431.452 and for which~~

~~prepayment has been made prior to trial as required by law .... $42.00~~

~~(b) For an offense for which prepayment is not permitted or~~

~~has not been made .... $67.00~~

~~(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185~~].

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3)[~~Additional costs shall be assessed in District Court criminal matters as follows:~~

~~(a) Preparing an attestation .... $0.50~~

~~(b) Preparing a certification .... $1.00~~

~~(c) Preparing a copy of a document (per page) .... $0.25~~

~~(4)~~] Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory***. Court costs shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition, unless the court makes written findings that the defendant is totally unable to pay the court costs in the foreseeable future. These findings shall not be made until after a hearing has been held and the court determines, in accordance with KRS 534.060, that the defendant is indigent and will be unable to pay court costs at any time in the foreseeable future***[~~ and shall not be probated or suspended~~].

(4)[~~(5)~~]The circuit clerk shall ***monthly pay the entire one hundred dollars ($100) from each court cost collected under subsection (1) of this subsection to the court cost distribution fund established in Section 32 of this Act***[~~, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.~~

~~(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.~~

~~(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

The circuit clerk shall charge the following fees for additional services rendered in criminal cases in the District Court:

(1) Preparing an attestation $0.50

(2) Preparing a certification $1.00

(3) Preparing a copy of a document (per page) .... $0.35.

Section 4. KRS 149.180 is amended to read as follows:

Whenever possible, the secretary for natural resources and environmental protection shall collect the costs of firefighting done and approved as provided in KRS 149.160, from the person responsible for the origin of the fire by his negligence or intent. The recovered costs shall be deposited in a special fund in the Natural Resources and Environmental Protection Cabinet. The recovered costs shall be repaid to the county in which the costs were incurred, if such county has fully paid its annual assessment to the statewide system as provided for in KRS 149.540 for the year in which the fire suppression costs were incurred. If a county is not eligible to receive the recovered costs, the money shall be used by the Division of Forestry to improve fire protection services. The funds so repaid to the county shall be placed in the county forest fire protection fund provided for in KRS 149.590. Any money in the Natural Resources and Environmental Protection Cabinet's special fund upon July 15, 1998, that were not repaid to a county for having failed to fully pay its annual assessment, shall be used by the Division of Forestry to improve fire protection services. In the event the suppression cost is not collected, the Commonwealth's attorney of the county in which the fire occurred shall institute and prosecute the necessary proceedings. ***Costs assessed under this section shall be ordered to be paid directly to the cabinet. The court shall not direct that the costs be paid through the circuit clerk.***

Section 5. KRS 149.430 is amended to read as follows:

(1) If any forest fire shall originate as a result of the violation by any person of any provision of KRS 149.360 to 149.430, such person shall be, in addition to the penalty prescribed under KRS 149.991, liable to the state and to each county for the full amount of all expenses incurred by the state and county respectively in suppressing each fire, such amounts to be recoverable by action brought by the secretary for natural resources and environmental protection in the name of the Commonwealth on behalf of the Commonwealth and by the county attorney on behalf of the county.

(2) In addition to any penalty pursuant to KRS 149.991, any person violating any of the provisions of KRS 149.360 to 149.430 shall be answerable in damages to any persons suffering such damage for the cost incurred in the suppression of any fire resulting from such violation and for damage to property resulting from such fires.

(3) Damages assessed under this section shall be ordered to be paid directly to the Natural Resources and Environmental Protection Cabinet or to any other person or organization specified by the court. The court shall not direct that the damages be paid through the circuit clerk.

Section 6. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.445, 150.485, 150.600, 150.630, 150.660, 150.450(1), 150.470, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. ***Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.***

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), or 150.235(2), (3), or (4) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. ***Costs assessed for the restoration of wildlife under this section shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.***

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars

($1,000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500); and for any subsequent offense, be fined two thousand dollars ($2,000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages. ***Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk.*** Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations adopted under authority of that section shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license, or if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. ***Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.***

Section 7. KRS 177.978 is amended to read as follows:

(1) All revenues generated ***from the purchase of decals*** pursuant to KRS 177.990~~[(4) and]~~(5) and KRS 177.9771(4) and no other taxes or fees normally assessed on motor carriers shall be credited to a special account within the road fund called the "energy recovery road fund" and any additional funds obtained through state appropriation, gifts, grants and federal funds may be credited to the special account, and shall be used, in addition to those road funds normally used for said highways, exclusively by the Transportation Cabinet for those costs attendant to highway purposes for roads designated as part of the extended weight coal haul road system. All funds in the account shall be carried forward at the end of each year.

(2) All funds credited to the "coal recovery road fund" shall be transferred to the "energy recovery road fund."

Section 8. KRS 189.2329 is amended to read as follows:

(1) A person shall not intentionally destroy, remove, injure, or deface a temporary traffic control device erected for the purpose of enhancing traffic safety or worker safety in a highway work zone. A temporary traffic control device shall include, but not be limited to, a cone, tubular marker, delineator, warning light, drum, barricade, sign, sign truck, arrow board, or other device specified in an approved traffic control plan or by an administrative regulation promulgated by the

cabinet pursuant to KRS Chapter 13A.

(2) A person who violates the provisions of this section shall, upon conviction, in addition to any other penalty established by statute, be sentenced to pay fifty dollars ($50) for each temporary traffic control device that the person destroyed, removed, injured, or defaced, and the person shall make restitution to the owner of the temporary traffic control device.~~[All funds collected pursuant to this subsection shall be deposited in the highway work zone safety fund established pursuant to KRS 189.394.]~~

(3) Restitution payments to owners of temporary traffic control devices required to be made under subsection (2) of this section shall be paid directly to the owner of the device as specified by the court. The court shall not direct that the payments be made through the circuit clerk.

Section 9. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed											
	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

~~[(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.~~

~~(6) Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.475.~~]

(5)[~~(7)~~]If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

[~~(8) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.~~]

Section 10. KRS 211.504 is amended to read as follows:

(1) The revenues received from the ***court costs generated under Section 32 of this Act***[~~additional penalties imposed by KRS 189.394(5) and the penalties imposed for violations of KRS 189.125~~] shall be credited to the spinal cord and head injury research trust fund which is hereby created.

(2) Federal funds or other funds which may be made available to supplement or match state funds for spinal cord and head injury research programs provided for by KRS 211.500 to 211.504 shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the spinal cord and head injury research trust fund shall be used to finance the spinal cord and head injury research programs authorized under the provisions of KRS 211.500 to 211.504 and for the operation of the Kentucky Spinal Cord and Head Injury Research Board. Funds for research shall only be used for spinal cord and head injury research undertaken by the University of Kentucky or University of Louisville.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, but any surplus shall be included in the budget considered and approved by the board for the ensuing period.

Section 11. KRS 346.185 is amended to read as follows:

(1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board.[~~ In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of twenty dollars ($20). This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer, to be deposited in the fund.~~] Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government ***court costs generated under Section 32 of this Act***;[~~ payments by the defendant pursuant to subsection (1) of this section~~] and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the Crime Victims' Compensation Board.

[~~(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the State of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.~~]

Section 12. KRS 431.100 is amended to read as follows:

(1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2)[~~ Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health Services for the provision of treatment and counseling programs for alcoholics.~~

~~(3) Fines for violation of KRS 512.070 shall be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.~~

~~(4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for~~

~~matching funds for grants for providing services and programs to juvenile public offenders.~~

~~(5)~~] The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 13. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless the privilege is expressly granted by the court, the prisoner shall be sentenced to ordinary confinement. The prisoner may petition the sentencing court for the privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Department for Employment Services, Cabinet for Workforce Development which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salary shall not be subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section. For tax purposes they shall be the income of the prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail, for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages, not to exceed forty dollars ($40) per day, but not less than twelve dollars ($12) per day, established by the fiscal court of a county or the urban-county council if an urban-county government. If he defaults, his privilege under this section shall be automatically forfeited. All moneys shall be ***paid directly to the jailer***[~~collected by the District Court~~] and paid to the county treasury for use on the jail as provided in KRS 441.206. The fiscal court of a county or the urban-county council if an urban-county government may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that the costs be repaid by the prisoner.

(5) ***The sentencing court may order the defendant's employer to deduct from the defendant's wages or salary payments for the following purposes***[~~Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the District Court on a monthly basis for the following purposes and in the order stated~~]:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court ***shall not direct that any payment authorized under this section be paid through the circuit clerk***[~~may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. The order shall remain in force until rescinded by the District Court~~].

(7) The Department of Corrections shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 14. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of

supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500) per year.

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500) per year, except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be ***paid directly by the defendant to the person or agency specified by written order of the court. The court shall not direct that any fee fixed under this section be paid through the circuit clerk***[~~collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section~~].

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In a city, county, charter county, or an urban-county government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county, city, charter county, or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county, city, charter county, or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) per year. All sums paid by the defendant under this subsection shall be paid into the general fund of the county, city, charter county, or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this ***section shall be paid directly by the defendant to the Division of Probation and Parole or to the unit of local government directed by the court by written order. The court shall not order the payments to be made through the Circuit Clerk***[~~subsection shall be collected by the~~

~~circuit clerk of the county or urban-county involved~~]. The adult misdemeanant probation and work release program of the county, city, charter county, or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by ***it***[~~the circuit clerk~~], and report delinquencies to the court.

Section 15. KRS 439.570 is amended to read as follows:

(1) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to arrest or detention by a probation or parole officer under the same circumstances as Kentucky probationers or parolees. The probation or parole officer shall immediately notify the sending state through the interstate compact of the arrest or detention of the person in question, setting forth the reasons for the arrest or detention.

(2) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to the payment of a supervision fee as established in KRS 439.315 and the payment of a drug testing and substance abuse treatment fee as conditions of supervision imposed by the Division of Probation and Parole. Failure to pay the required supervision fee or drug testing and substance abuse treatment fee is grounds for the termination of supervision or shall subject the person to the initiation of revocation proceedings under the same circumstances as set forth in KRS 439.315. For purposes of implementing KRS 439.315, the Division of Probation and Parole shall be the releasing authority.

(3) Fees and costs specified to be paid in this section shall be paid directly to the Division of Probation and Parole or to the person or agency directed in writing by the Division of Probation and Parole. Neither the Division of Probation and Parole or a court shall order the payments to be made through the circuit clerk.

Section 16. KRS 439.575 is amended to read as follows:

(1) There is hereby created a program for prerelease probation of inmates confined in correctional facilities under the jurisdiction of or under contract to the Department of Corrections.

(2) Any inmate who is in a prerelease program or eligible for a prerelease program as specified by administrative regulations of the Department of Corrections may apply to the sentencing court for prerelease probation.

(3) The court, upon favorable recommendation of the Department of Corrections, may place the inmate on probation under those terms and conditions the court deems necessary, which may include but not need to be limited to those specified in KRS 533.030.

(4) In particular, the court may require that an inmate placed on prerelease probation remain in a half-way house approved by the Department of Corrections and that the probationer pay the cost of his or her lodging in the half-way house and the costs of probation supervision in accordance with applicable statutes for probation supervision and persons granted work release from jail. ***Costs for lodging in a half-way house or other facility approved by the Department of Corrections shall be paid by the defendant directly to the half-way house at the rate specified by written order of the Department of Corrections. Costs for probation supervision shall be paid by the defendant directly to the Division of Probation and Parole or other agency approved by the court by written order. The Department of Corrections, the Division of Probation and Parole, or the court shall not order any payments to be made through the circuit clerk.***

(5) An inmate placed on prerelease probation shall no longer be considered as an inmate of the Department of Corrections but shall be considered as a defendant placed on probation, subject to supervision by the Division of Probation and Parole, or other agency approved by the court, and the orders of the court.

(6) A person placed on prerelease probation by the court who violates the conditions of his or her probation may be dealt with by the court in the same manner as any other person who violates the conditions of probation.

(7) The period of probation under this section shall not exceed the maximum expiration date of the inmate applying for the probation.

Section 17. KRS 532.032 is amended to read as follows:

(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and KRS 439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.

(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.

(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.

(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.

(5) Restitution payments ordered under this section shall be paid by the defendant to the clerk or a court-authorized program run by the county attorney or the Commonwealth's attorney of the county.

Section 18. KRS 532.160 is amended to read as follows:

(1) The sentencing court may issue a criminal garnishment order for all fines under KRS Chapter 534 or KRS 346.185 and for court costs, restitution, and reimbursement charges in this chapter.

(2) A criminal garnishment applies to any of the following:

(a) A convicted person's earnings as defined in KRS 427.005;

(b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;

(c) Money that is held by a garnishee on behalf of a convicted person;

(d) The convicted person's personal property that is in the possession of a garnishee; or

(e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.

(3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.

(4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.

(5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.

(6) The court shall order payments made under this section to be paid by the defendant directly to the person or organization specified by written order of the court. The court shall not order payments of an order of criminal garnishment to be made through the circuit clerk.

Section 19. KRS 532.220 is amended to read as follows:

The conditions of home incarceration shall include the following:

(1) The home incarceree shall be confined to his home at all times except when:

(a) Working at approved employment or traveling directly to and from such employment;

(b) Seeking employment;

(c) Undergoing available medical, psychiatric, or mental health treatment or approved counseling and after care programs;

(d) Attending an approved educational institution or program;

(e) Attending a regularly scheduled religious service at a place of worship; and

(f) Participating in an approved community work service program;

(2) Violation of subsection (1) of this section may subject the home incarceree to prosecution under KRS 520.030 (escape);

(3) The home incarceree shall conform to a schedule prepared by a designated officer of the supervising authority specifically setting forth the times when he may be absent from the home and the locations where he may be during those times;

(4) The home incarceree shall not commit another offense during the period of time for which he is subject to the conditions of home incarceration;

(5) The home incarceree shall not change the place of home incarceration or the schedule without prior approval of the supervising authority;

(6) The home incarceree shall maintain a telephone or other approved monitoring device in the home or on his person at all times;

(7) Any other reasonable conditions set by the court or the supervising authority including:

(a) Restitution under KRS 533.030;

(b) Supervision fees under KRS 439.315; and

(c) Any of the conditions imposed on persons on probation or conditional discharge under KRS 533.030(2); and

(8) A written and notarized consent agreement shall be filed with the court by every adult who will share the offender's home during the term of home incarceration.

(9) Any supervision fee or other monetary condition, except restitution, shall be paid by the defendant directly to the person or organization specified by the court by written order. The court shall not order any supervision fee or other monetary condition to be paid through the circuit clerk.

Section 20. KRS 532.352 is amended to read as follows:

(1) The sentencing court may order a person who is sentenced to a term of incarceration for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense to reimburse the state or local government for the costs of his incarceration. The reimbursements paid under this subsection shall be credited to the local government sinking fund.

(2) The sentencing court shall determine the amount of incarceration costs to be paid based on the following factors:

(a) The actual per diem, per person, cost of incarceration;

(b) The cost of medical services provided to a prisoner less any copayment paid by the prisoner; and

(c) The prisoner's ability to pay all or part of his incarceration costs.

(3) Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer or to the Department of Corrections in the amount specified by written order of the court. The court shall not order reimbursement of incarceration costs to be paid through the circuit clerk.

Section 21. KRS 532.356 is amended to read as follows:

(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:

(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and

(b) Restitution to the crime victim as set out in KRS 439.563, 532.032, and 532.033.

(2) Sanctions imposed by the sentencing court shall become a judgment of the court. ***Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer or to the Department of Corrections in the amount specified by written order of the court. The court shall not order reimbursement of incarceration costs to be paid through the circuit clerk.***

Section 22. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(3) In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:

(a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;

(b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

(4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:

(a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;

(b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or

(c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.

(5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.

(6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the

following alternative sentences:

(a) To a halfway house for no more than twelve (12) months;

(b) To home incarceration with or without work release for no more than twelve (12) months;

(c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;

(d) To a residential treatment program for the abuse of alcohol or controlled substances; or

(e) To any other specified counseling program, rehabilitation or treatment program, or facility.

(7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.

(8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:

(a) A defendant sentenced to a halfway house shall:

1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;
2. Pay restitution during the term of probation; and
3. Have no contact with the victim of the defendant's crime;

(b) A defendant sentenced to home incarceration shall:

1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;
2. Pay restitution during the term of home incarceration;
3. Enter a treatment program, if appropriate;
4. Pay all or some portion of the cost of home incarceration as determined by the court;
5. Comply with other conditions as specified; and
6. Have no contact with the victim of the defendant's crime;

(c) A defendant sentenced to jail with community service shall:

1. Pay restitution during all or some part of the defendant's term of probation; and
2. Have no contact with the victim of the defendant's crime; or

(d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:

1. Undergo mandatory drug screening during term of probation;
2. Be subject to active, supervised probation for a term of five (5) years;
3. Undergo aftercare as required by the treatment program;
4. Pay restitution during the term of probation; and
5. Have no contact with the victim of the defendant's crime.

(9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.

(10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030*(5)*[~~(6)~~].

(11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.

(12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.

(13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.

(14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.

(15) ***Reimbursement of incarceration costs shall be paid by the defendant directly to the jailer or to the Department of***

Corrections in the amount specified by written order of the court. The court shall not order any payment of incarceration costs or other cost to be paid by the defendant, except restitution, to be paid through the circuit clerk.

(16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 23. KRS 533.020 is amended to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation. ***When setting conditions under this subsection the court shall not order any defendant to pay incarceration costs or any other cost permitted to be ordered under Section 22 of this Act, or other statute, except restitution, to be paid by the defendant, to be paid through the circuit clerk.***

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.

(3) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(4) The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a felony nor two (2) years, or the time necessary to complete restitution, whichever is longer, upon conviction of a misdemeanor. Upon completion of the probationary period, probation with an alternative sentence, or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation, probation with an alternative sentence, or conditional discharge has not been revoked.

(5) Notwithstanding the fact that a sentence to probation, probation with an alternative sentence, or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 24. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be ***paid***[~~collected by the circuit clerk, held in an agency account, and disbursed,~~] on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then-prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall inure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk or office personnel salaries, or combination thereof;

(c) When a defendant fails to make restitution ordered to be paid through the circuit clerk ***or a court-authorized program run by the county attorney or the Commonwealth's attorney***, the circuit clerk ***or court-authorized program*** shall notify the court; and

(d) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) ***When imposing testing for controlled substances or alcohol or other fees and payments authorized by this section or other statute, except restitution, to be paid by the defendant, the court shall not order the payments to be paid through the circuit clerk***[~~In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.~~

~~(5) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of probation or conditional discharge of a sentence of detention or imprisonment for a drug or alcohol related offense, to make one (1) payment either to Drug Abuse Resistance Education (D.A.R.E.) or to any treatment or prevention program for drug or alcohol abuse that a local government administers, refers individuals to, or contracts to administer, in an amount not to exceed the amount of any fine which also could have been imposed for the offense~~].

(5)[~~(6)~~]When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6)[~~(7)~~]When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 25. KRS 534.045 is amended to read as follows:

(1) Pursuant to a conviction of a misdemeanor, including traffic offenses, where a person is sentenced to incarceration in the county jail, the District Court may assess a reimbursement fee to help defray the expenses of the prisoner's room and board. The reimbursement fee shall not exceed twenty-five percent (25%) of the prisoner's gross daily wages or forty dollars ($40) per day, whichever is less. All moneys shall be ***paid directly to the jailer***~~[collected by the District Court]~~ and paid to the county, urban-county, or charter county treasury for use on the jail as provided in KRS 441.206.

(2) In determining whether a reimbursement fee as described in subsection (1) of this section is to be assessed, and in establishing the amount of the fee, the court shall consider evidence relevant to the prisoner's ability to pay the fee but shall not consider as evidence the following:

- (a) Joint ownership, if any, that the prisoner may have in real property;
- (b) Joint ownership, if any, that the prisoner may have in any assets, earnings, or other sources of income; and
- (c) The income, assets, earnings, or other property, both real and personal, that might be owned by the prisoner's spouse or family.

(3) After considering all relevant evidence to the issue of the prisoner's ability to pay, the court shall enter as part of its judgment the amount of the reimbursement fee, if any, that shall be paid by the prisoner during his period of incarceration in the county jail. The fee shall bear a reasonable relationship to the person's income. Upon petition by the prisoner affected by the order, the amount may be modified to reflect any changes in the financial status of the prisoner. In any appeal that might be taken from the conviction, the amount of the reimbursement fee may be challenged.

(4) If the person sentenced to jail is released in accordance with the provisions of KRS 439.179 and is subject to the provisions of KRS 439.179(4), the payment of the reimbursement fee shall be suspended so long as the person is gainfully employed.

(5) The court, when imposing any payment authorized by this section, shall order the defendant to make the payment to the named officer, person, or organization. The court shall not order any payment authorized by this section to be made through the circuit clerk.

Section 26. KRS 635.085 is amended to read as follows:

(1) In lieu of commitment to the Department of Juvenile Justice, if a child is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

- (a) For a felony, not to exceed five hundred dollars ($500);
- (b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and
- (c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility or juvenile holding facility. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

~~[(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the fund specified in KRS 431.100.]~~

Section 27. KRS 24A.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section all fees and costs collected pursuant to KRS 24A.170 (1) shall be deposited in the general fund of the State Treasury.

(2) Fees consisting of reimbursement for incidental direct outlays, including, but not limited to, postage and legal advertising, may be retained by the clerk and expended for these purposes in accordance with relevant directives of the Administrative Office of the Courts.

(3) Additional costs in District Court civil cases authorized by subsection (2) of KRS 24A.170 shall be paid to the sheriff or other officer serving the process.

(4)~~[Costs and additional costs authorized by subsections (1), (2), (3), (4), (5) and (6) of KRS 24A.175 shall be placed in the general fund of the State Treasury and may be appropriated as provided by law.~~

~~(5)]~~ The moneys authorized by subsection ***(2)(a) of Section 32 of this Act***~~[(7) of KRS 24A.175]~~ shall be paid monthly to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092.

(5)~~[(6)]~~Filing fees in civil actions shall be recoverable as costs.

Section 28. KRS 441.685 is amended to read as follows:

(1) There is created and established a Kentucky Local Correctional Facilities Construction Authority fund which shall consist of the following:

(a) Rentals received under leases made by the authority pursuant to KRS 441.625 to 441.695;

(b) Appropriations by the General Assembly;

(c) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;

(d) Moneys collected and deposited in the State Treasury as provided by KRS 24A.175*(5)*[~~(6)~~]; and

(e) All interest earned on investments made by the state from moneys deposited in this fund.

(2) Moneys accruing to this fund shall be deposited by the State Treasurer in the fund's trust and agency account, and shall be invested by the state for the benefit and use of the authority, pending their application to the expenses of the authority and to payments of interest and principal of bonds, notes and other obligations of the authority. Notwithstanding the provisions of the foregoing sentence, at such time or times as the moneys contained in the fund are sufficient to pay the principal on all bonds, notes and obligations of the authority that would become due in the next ensuing twelve (12) month period, the authority may use moneys in the fund in excess thereof for such purposes as provided for in KRS 441.625 to 441.695.

Section 29. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) If the alcohol concentration is below 0.18, for a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

[~~(10) Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.~~]

Section 30. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who

willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26)[~~ Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.~~

~~(27)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27)[~~(28)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28)[~~(29)~~] Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 31. KRS 211.476 is amended to read as follows:

(1) The traumatic brain injury trust fund is created as a separate revolving fund.[~~ The trust fund shall consist of moneys collected from an additional assessment of twenty dollars ($20) imposed on driving under the influence offenses, an additional assessment of ten dollars ($10) imposed against selected speeding offenses, and an additional fine of ten dollars ($10) imposed against selected moving violations.~~]

(2) The trust fund may receive the proceeds from grants, contributions, appropriations, and any other moneys that may be made available for the purposes of the trust fund.

(3) Expenditures from the trust fund on behalf of the medical registry created under KRS 211.474 shall not exceed one hundred twenty-five thousand dollars ($125,000) for any fiscal year.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse to the general fund.

SECTION 32. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks shall be paid, under subsection (5) of Section 1 and subsection (4) of Section 2 of this Act.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund. Money collected from each court cost by a circuit clerk under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act shall be disbursed as follows:

(a) Ten dollars ($10) from each court cost shall be paid to the sheriff in the county in which each court cost was paid;

(b) Ten dollars ($10) from each court cost shall be paid to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Five dollars ($5) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, to be used for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners. The cabinet shall provide reports to the Administrative Office of the Courts stating the amounts paid to each county;

(d) Five dollars ($5) from each court cost shall be paid to the spinal cord and head injury research fund created in

Section 10 of this Act;

(e) Five dollars ($5) from each court cost shall be paid to the traumatic brain injury trust fund as created in Section 31 of this Act;

(f) Three dollars ($3) from each court cost shall be paid to the trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries as provided for in KRS 30A.200;

(g) Two dollars ($2) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, for the purpose of paying expenses for the local jails, courthouses, bonds related to them and administration thereof; and

(h) Two dollars ($2) from each court cost shall be paid to the crime victims' compensation fund as provided for in Section 11 of this Act.

(3) Funds not disbursed under subsection (2) of this section shall lapse at the end of each fiscal year into the general fund of the Commonwealth of Kentucky.

Section 33. KRS 23A.215 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, all fees and costs collected pursuant to KRS 23A.200(1) shall be deposited in the general fund of the State Treasury.

(2) Fees consisting of reimbursement for incidental direct outlays, including, but not limited to, postage and legal advertising, may be retained by the clerk and expended for these purposes in accordance with relevant directives of the Administrative Office of the Courts.

(3) The moneys authorized by ***subsection (2)(a) of Section 32 of this Act***[~~subsection (5) of KRS 23A.205~~] shall be paid monthly to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092.

(4) Filing fees in civil actions shall be recoverable as costs.

Section 34. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate, and the utilization of additional personnel is approved by the Chief Justice, or his designee. In the event of an emergency of such nature precluding contacting the Chief Justice or his designee, the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day, he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the Chief Judge of the Circuit Court, if the service was to the Circuit Court, or by the Chief Judge of the District Court, if the service was to the District Court.

(6) The sheriff or other law enforcement officer serving a Circuit or District Court shall be compensated at the rate of eight dollars ($8) per hour of service. If service is for a part of an hour, then compensation for such service shall be prorated for the actual number of minutes' service within a given hour.

(7) The sheriff shall receive five dollars ($5) from each court cost collected pursuant to [~~KRS 23A.205,~~]23A.215,[~~ 24A.175,~~] and 24A.180***, and ten dollars ($10) from each court cost collected under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act,*** to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

Section 35. KRS 441.685 is amended to read as follows:

(1) There is created and established a Kentucky Local Correctional Facilities Construction Authority fund which shall consist of the following:

(a) Rentals received under leases made by the authority pursuant to KRS 441.625 to 441.695;

(b) Appropriations by the General Assembly;

(c) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;

(d) Moneys collected and deposited in the ***court cost distribution fund***[~~State Treasury~~] as provided by ***subsection (2)(b) of Section 32 of this Act***[~~KRS 24A.175(6)~~]; and

(e) All interest earned on investments made by the state from moneys deposited in this fund.

(2) Moneys accruing to this fund shall be deposited by the State Treasurer in the fund's trust and agency account, and shall be invested by the state for the benefit and use of the authority, pending their application to the expenses of the authority and to payments of interest and principal of bonds, notes and other obligations of the authority. Notwithstanding the provisions of the foregoing sentence, at such time or times as the moneys contained in the fund are sufficient to pay the principal on all bonds, notes and obligations of the authority that would become due in the next ensuing twelve (12) month period, the authority may use moneys in the fund in excess thereof for such purposes as provided for in KRS 441.625 to 441.695.

Section 36. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990***(27)***[~~(28)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990***(27)***[~~(28)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990***(27)***[~~(28)~~], a person shall not be eligible to attend state traffic school more than once in any two (2) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

Section 37. The following KRS section is repealed:

26A.150 Collection and forwarding of crime victim compensation fee.

431.102 Service fee on certain misdemeanor convictions.

Section 38. This Act takes effect August 1, 2000.

The Committee on Agriculture and Small Business reported **HB 891, HB 940, HB 941, HB 979, SB 57,** with House Committee Substitute attached thereto, and **SB 300** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 891, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.040 is amended to read as follows:

For the purposes of this chapter, unless the context requires otherwise:

(1) "Pest" means:

(a) Any insect, snail, slug, rodent, nematode, fungus, weed; ***or***[~~ and~~]

(b) Any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department declares to be a pest;

(2) "Pesticide" means:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; ***or***[~~and~~]

(c) Any substance or mixture of substances intended to be used as a spray adjuvant***, once they have been mixed with an EPA registered product***;

(3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission;

(4) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues;

(5) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(6) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example beetles, bugs, bees, wasps, and flies, and includes other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example spiders, mites, ticks, centipedes, and wood lice, and also nematodes and other worms, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(7) "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(8) "Fertilizer" means any substance containing one (1) or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products exempted by administrative regulation;

(9) "Weed" means any plant which grows where not wanted;

(10) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, and may also be called nemas or eelworms;

(11) "Snails or slugs" include all harmful mollusks;

(12) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(13) "Equipment" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in the land, but shall not include any pressurized hand-sized household device used to apply any pesticide;

(14) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by administrative regulation of the department;

(15)[~~ "Engage in business" means any application of pesticide by any person upon lands of another;~~

~~(16)~~] "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices, and contrivances and machinery appurtenant ***to***[~~thereto~~] or situated ***on them***[~~thereon~~], fixed or mobile, including any used for transportation;

(16)[~~(17)~~] "Pesticide applicator" means any *individual employed or supervised by a pesticide operator to apply pesticides. The term does not include trainees*[~~person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands of another~~];

(17)[~~(18)~~] "Pesticide operator" means any *individual who owns or manages a pesticide application business that is engaged in the business of applying pesticides upon the lands of another*[~~person employed by a pesticide applicator who operates equipment for the application of pesticides or applies pesticides manually. This term does not include employees who work only under direct "on-the-job" supervision of a licensed pesticide applicator or licensed pesticide operator~~];

(18)[~~(19)~~] "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision, or aid, or recommends the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests;

(19)[~~(20)~~] *"Noncommercial applicator"*[~~"Public operator"~~] means any *individual employed*[~~person in charge of any equipment used~~] by *golf courses,* municipal corporations, public utilities, or other governmental agencies *making applications of pesticides to lands owned, occupied, or managed by his or her employer*[~~ applying pesticides~~];

(20)[~~(21)~~] "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests; including, but not limited to mammals, birds, and aquatic life;

(21)[~~(22)~~] "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive, and, having received, deliver or offer to deliver any pesticides in this state excepting internal distribution within a company or organization;

(22)[~~(23)~~] "EPA" means the United States Environmental Protection Agency;

(23)[~~(24)~~] "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or to any of its containers or wrappers;

[~~(25) "Restricted use pesticide dealer" means any person who distributes restricted use pesticides except manufacturers of restricted use pesticides who distribute their products solely to "restricted use pesticide dealers";~~]

(24)[~~(26)~~] "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect *of it*[~~thereof~~], and which is in a package or container separate from that of the other pesticide with which it is to be used;[~~ and~~]

(25)[~~(27)~~] "Commissioner" means the Commissioner of the Department of Agriculture*;*

(26) "Dealer" means any person that engages in the storage of bulk fertilizer or a restricted use pesticide for the purpose of redistribution or direct resale, or engages in the business of applying any pesticide to the lands of another. A "dealer" shall not include a manufacturer of a restricted use pesticide or a fertilizer who distributes his or her product solely to a dealer;

(27) "Trainee" means an individual who has been employed by a dealer and is working under the direct on-the-job supervision of a licensed operator or applicator;

(28) "Direct on-the-job supervision" means having a licensed operator or licensed applicator physically on site and directly supervising or training an individual in the application of a pesticide;

(29) "Branch office" means any location of a dealer other than its designated principal place of business location, but does not include on-premises and off-premises bulk storage or receiving warehouses used solely for the purpose of customer order filling;

(30) "Applicant" means a person applying for a license or registration under this chapter;

(31) "Pesticide sales agent" means an individual who sells or distributes restricted use pesticides or an individual who sells and makes recommendations for the use or application of pesticides to the final user;

(32) "Limited license" means a license that is issued by the department for noncommercial use, and shall be valid only when an individual is making applications of pesticides to lands owned, occupied, or managed by his or her employer; and

(33) "Certified crop advisor" means an individual who has met the requirements of and has been certified by the Kentucky Certified Crop Advisor Board.

Section 2. KRS 217B.050 is amended to read as follows:

(1) The department shall administer and enforce the provisions of this chapter and *promulgate*[~~issue~~] administrative regulations to carry out the provisions of this chapter and in the administrative regulations may prescribe methods to be used in the storage of fertilizers and pesticides, and application of pesticides. Where the department finds that the administrative regulations are necessary to carry out the purpose and intent of this chapter, the administrative regulations may relate to the time, place, manner, and method of storage and application of the pesticides and storage of fertilizers and pesticides, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or

misapplication to:

(a) Plants, including forage plants, on adjacent or nearby lands;

(b) Wildlife in the adjoining or nearby areas;

(c) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and

(d) Pollinating insects, animals, or persons.

(2) In ***promulgating***[~~issuing~~] the administrative regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state and of the federal government.

(3) The department may by administrative regulation adopt a list of "restricted use pesticides" for the state or for designated areas within the state if it finds that the characteristics of the pesticides require restricting their use to prevent injury on lands other than the land to which they are applied, or to persons, animals, crops, or pests or vegetation other than the pests or vegetation which they are intended to destroy. For the purpose of uniformity of requirements between the states and the federal government, the department may adopt the list of "restricted use pesticides" as established by the Environmental Protection Agency or other federal or state agencies.

(4) The department may establish additional classifications of applicator ***or operator*** licenses as required for conformance with the Federal Environmental Pesticide Control Act of 1972. The classifications may include private farmer applicators, commercial establishment applicators, and government employee applicators not specifically mentioned in this chapter. The administrative regulations may specify licensing conditions, procedures, and fees not to exceed those fees specified for other licensees under this chapter.

Section 3. KRS 217B.060 is amended to read as follows:

(1) The department may classify licenses to be issued under this chapter. ***The***[~~Such~~] classifications may include but not be limited to ornamental or agricultural pesticide applicators, or right-of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides. Each classification shall be subject to separate testing procedures and requirements.[~~ No person shall be required to pay an additional license fee if such person desires to be licensed in one (1) or all of the license classifications provided for by the department under the authority of this section.~~]

(2) Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, and license classification or classifications the applicant is applying for, and shall include the following:

(a) The full name of the person applying for the license;

(b) If the applicant is a receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of the receiver or trustee, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;

(c) The principal business address of the applicant in the state and elsewhere;

(d) The name and address of a person, who may be the Secretary of State, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;

(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides; and

(f) Any other necessary information prescribed by the department.

(3) The department shall require an applicant for a license to show upon examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he or she has applied for. The applicant shall also demonstrate a knowledge of the proper use of and calibration of the various equipment that he or she may have applied for a license to operate, including any pressurized, hand-sized devices. The examination shall require a working knowledge of:

(a) The proper use of the equipment;

(b) The hazards that may be involved in applying pesticides, including:

1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;

2. The proper meteorological conditions for the application of pesticides and the precautions to be taken;

3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

4. The effect of the application of pesticides to wildlife in the area, including aquatic life;

5. The identity and classification of pesticides used and the effects of their application in particular circumstances; and

6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation;

(c) Calculating the concentration of pesticides to be used in particular circumstances;

(d) Identification of pests to be controlled by common name only and the damages caused by the pests;

(e) Protective clothing and respiratory equipment required during the handling and application of pesticides;

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment that the applicant proposes to use; and

(g) Applicable state and federal pesticide laws and regulations.

(4) If the department finds the applicant qualified to apply pesticides in the classifications he or she has applied for, if the applicant files the bond or insurance required under Section 15 of this Act, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he or she is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior to that by the department for cause, or the financial security required under Section 15 of this Act is not dated to expire at an earlier date, in which case the license shall be dated to expire upon the expiration date of the financial security.

Section 4. KRS 217B.070 is amended to read as follows:

(1) No person shall engage in the business of applying pesticides to the lands of another within this state at any time without a pesticide ***operator's***~~[applicator's]~~ license issued by the department. The department shall require an annual fee of ***twenty-five dollars ($25)***~~[$25]~~ for each pesticide ***operator's***~~[applicator's]~~ license issued~~[and, in addition, an inspection fee of $10 for each aircraft to be licensed and $10 for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection under KRS 217B.160, making it necessary for a second inspection to be made, the department shall require an added inspection fee of $5. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations]~~.

(2) ***No license shall be issued unless the applicant holds a valid certification within this category***~~[Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, license classification or classifications the applicant is applying for, and shall include the following:~~

~~(a) The full name of the person applying for the license;~~

~~(b) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;~~

~~(c) The principal business address of the applicant in the state and elsewhere;~~

~~(d) The name and address of a person, who may be the Secretary of State, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;~~

~~(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides;~~

~~(f) Any other necessary information prescribed by the department]~~.

(3) ***No license shall be issued unless the applicant is registered as a dealer or is employed by a person who is registered as a dealer***~~[The department shall require an applicant for a license to show upon examination that he possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he has applied for, manually or with the various equipment that he may have applied for a license to operate. The examination shall require a working knowledge of:~~

~~(a) The proper use of the equipment.~~

~~(b) The hazards that may be involved in applying pesticides, including:~~

~~1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;~~

~~2. The proper meteorological conditions for the application of pesticides and the precautions to be taken therewith;~~

~~3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;~~

~~4. The effect of the application of pesticides to wildlife in the area, including aquatic life;~~

~~5. The identity and classification of pesticides used and the effects of their application in particular circumstances;~~

~~6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation.~~

~~(c) Calculating the concentration of pesticides to be used in particular circumstances.~~

~~(d) Identification of pests to be controlled by common name only and the damages caused by such pests.~~

~~(e) Protective clothing and respiratory equipment required during the handling and application of pesticides.~~

~~(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.~~

~~(g) Applicable state and federal pesticide laws and regulations.~~

~~(4) If the department finds the applicant qualified to apply pesticides in the classifications he has applied for and, if the applicant files the bond or insurance required under KRS 217B.130, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the department for cause or the financial security required under KRS 217B.130 is not dated to expire at an earlier date, in which case said license shall be dated to expire upon expiration date of said financial security~~].

Section 5. KRS 217B.080 is amended to read as follows:

(1) Except as provided in Section 6 of this Act, it shall be unlawful for any person to act as an employee of a pesticide *operator or dealer*[~~applicator~~] and apply pesticides manually*,* or as the *applicator*[~~operator~~] directly in charge of any equipment which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained an *applicator's*[~~operator's~~] license from the department.[~~ Such~~] An *applicator's*[~~operator's~~] license shall be in addition to any other license or permit required by law for the operation or use of any[~~ such~~] equipment. Any person applying for [~~such~~] an *applicator's*[~~operator's~~] license shall file an application on a form prescribed by the department on or before January 1 of each year. Application for a license to apply pesticides shall be accompanied by a license fee of *ten dollars($10)*[~~$10~~]. The provisions of this section shall not apply to any individual who has passed the examination provided for in subsection (3) of *Section 3 of this Act*[~~KRS 217B.070~~], and is a licensed pesticide *operator*[~~applicator~~]. If the department finds the applicant qualified to apply pesticides in the classifications he has applied for after examinations as provided for in subsection (3) of *Section 3 of this Act*[~~KRS 217B.070~~], and if the applicant applying for a license to engage in aerial applications of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide *applicator*[~~operator~~] license limited to the classifications for which he is qualified which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior *to that*[~~thereto~~] by the department for cause as provided for in KRS 217B.120.

(2) No license shall be issued unless the applicant holds a valid certification within this category.

(3) No license shall be issued unless the applicant is employed or supervised by a person who holds a valid operator's license.

Section 6. KRS 217B.090 is amended to read as follows:

(1) It shall be unlawful for any person to act as a noncommercial applicator without having obtained a noncommercial applicator license from the department. Any person applying for a noncommercial applicator's license shall file an application on a form prescribed by the department on or before January 1 of each year. The provisions of this section shall not apply to any individual who is a licensed pesticide operator or applicator. If the department finds the applicant qualified to apply pesticides, the department shall issue a limited license without a fee to a noncommercial applicator, which shall be valid only when the individual is applying pesticides on land owned, occupied, or managed by his or her employer. The noncommercial applicator license shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior to that by the department for cause as provided for in Section 14 of this Act.[~~Municipal corporations, and public utilities, or any other governmental agency except state agencies shall be subject to the provisions of this chapter and rules adopted thereunder; the public operator in charge of any equipment used by any municipal corporations, public utilities, or any governmental agencies, shall be subject to the provisions of KRS 217B.070(3) and 217B.080, and the department shall issue a limited license without a fee to such public operators which shall be valid only when such public operators are acting as operators on equipment used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides to experimental plots. Such agencies, municipal corporations, and public utilities,~~]

(2) Employers of noncommercial applicators shall be subject to legal recourse by any person damaged by ***the***[~~such~~] application of any pesticide, and ***the***[~~such~~] action may be brought in the county where the damage or some part ***of the damage***[~~thereof~~] occurred.

(3) No license shall be issued unless the applicant holds a valid certification within this category.

(4) A limited license cannot be upgraded without retesting.

Section 7. KRS 217B.100 is amended to read as follows:

(1) No person shall perform services as a pest control consultant without first procuring from the department a license in the

classifications he has applied for under KRS 217B.060. Application for a license shall be on a form prescribed by the department and shall include the applicable information stipulated in subsection (2) of ***Section 3 of this Act***[~~KRS 217B.070~~]. The application for a license shall be accompanied by an annual fee of ***fifty dollars ($50)***[~~$50~~].

(2) Each applicant for a pest control consultant's license shall be required to present to the department satisfactory evidence of training and experience providing a basic background to understand pest control principles. ***The***[~~Such~~] applicant shall be required to pass satisfactorily a written examination to be prescribed by the department to demonstrate the applicant's specific knowledge under subsection (3) of ***Section 3 of this Act***[~~KRS 217B.070~~].

(3) If an applicant provides a copy of a valid Kentucky Certified Crop Advisor certification to the department, the test and fee for a consultant license may be waived.

Section 8. KRS 217B.103 is amended to read as follows:

(1) The department may suspend for not longer than ten (10) days, pending inquiry, and, after opportunity for a hearing, the department may deny, suspend, revoke, or modify the provision of any license issued under KRS 217B.100 if it finds that the applicant or licensee or his employee has committed any of the following acts, each of which is declared to be a violation of this section:

(a) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(b) Made a pesticide recommendation not in accordance with the label registered ***as provided by***[~~pursuant to~~] KRS 217.541 to 217.640;

(c) Violated any provision of this chapter or any ***administrative***[~~rule or~~] regulation ***promulgated***[~~adopted~~] by the department or of any lawful order of the department;

(d) Failed to pay the original or renewal license fee when due[~~, and continue to sell restricted use pesticides without paying the license fee, or sold restricted use pesticides without a license~~];

(e) Was guilty of gross negligence, incompetency, or misconduct in acting as a ***consultant, or***[~~pesticide dealer;~~

~~(f) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;~~

~~(g) Made false or fraudulent records, invoices, or reports;~~

~~(h)~~] used fraud or misrepresentation in making an application for a license or renewal of a license[~~, or in selling or offering to sell restricted use pesticides~~];

(f)[~~(i)~~] Refused or neglected to comply with any limitations or restrictions on or in a duly issued license;

(g)[~~(j)~~] Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~ such~~] a licensed or unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person; ***or***

(h)[~~(k)~~] Impersonated any state, county, or city inspector or official[~~;~~

~~(l) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted regulations~~].

(2) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license[~~ hereunder~~] until ***the***[~~such~~] time has elapsed from the date of the order revoking ***the***[~~said~~] license as established by the department, not to exceed two (2) years, or if an appeal is taken from ***the***[~~said~~] order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining ***the***[~~said~~] revocation.

Section 9. KRS 217B.105 is amended to read as follows:

(1) No person shall act in the capacity of a[~~ pesticide~~] dealer, or shall engage or offer to engage in the business of, advertise as, or assume to act as a[~~ restricted use pesticide~~] dealer ***without having registered as a dealer with the department***[~~unless he is licensed annually as provided in this section. A separate license and fee shall be required for each location or outlet from which restricted use pesticides are distributed~~].

(2) Application for a[~~ pesticide~~] dealer ***registration***[~~license~~] shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of ***fifty dollars ($50)***[~~five dollars ($5)~~]. All ***registrations***[~~licenses~~] issued under this section shall expire on December 31 of the year for which they are issued. The ***registration***[~~license~~] for a[~~ pesticide~~] dealer may be renewed annually upon application to the department, accompanied by a fee of ***fifty dollars ($50)***[~~five dollars ($5)~~] for each ***registration***[~~license~~], on or before the first day of January of the calendar year for which the ***registration***[~~license~~] is issued.

(3) ***No person shall be registered as a dealer without proof of financial responsibility as required by Section 15 of this Act.***

(4) A dealer shall register each branch office location.

(5) Application for a branch office registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of twenty-five dollars ($25). All registrations issued under

this section shall expire on December 31. The registration for a branch office may be renewed annually upon application to the department, accompanied by a fee of twenty-five dollars ($25) for each registration, on or before the first of January of the calendar year for which the registration is issued. No branch office registration may be issued unless the applicant is registered as a dealer.

(6) The department shall issue to each applicant who satisfies the requirements of this section a ***registration***[~~license~~] which entitles the applicant to conduct the business described in the application for the calendar year for which the ***registration***[~~license~~] is issued, unless the ***registration***[~~license~~] is sooner revoked or suspended.

(7)[~~(4)~~]The department shall ***promulgate administrative***[~~prescribe~~] regulations requiring[~~ restricted use pesticide~~] dealers to maintain[~~ such~~] records with respect to their operations as it determines are necessary for the effective enforcement of this chapter. ***The***[~~Such~~] records shall include, but not be limited to[~~:~~] brands and amounts of restricted use pesticides sold***, and the***[~~;~~] buyer's name, address***, use of the pesticide,*** and ***certification***[~~applicator's license~~] number.[~~; provided that, no~~] Records required under this section shall extend to financial data, sales data,[~~ other than amount and~~] shipment data,[~~ pricing data~~] and personnel data. ***The***[~~Such~~] records are to be retained for a period of two (2) years from the time of sale. For the purposes of enforcing the provisions of this chapter, any[~~ pesticide~~] dealer shall, upon request of the department, furnish or permit the department at all reasonable times to have access to, and to copy, records as required by this section.

Section 10. KRS 217B.107 is amended to read as follows:

Each[~~ pesticide~~] dealer shall be responsible for the actions of every person who acts as his employee or agent in the solicitation or sale of restricted use pesticides, and in all claims and recommendations for use or application of restricted use pesticides.

SECTION 11. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a licensure program for pesticide sales agents. The department shall require an applicant for licensure to show upon examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides.

(2) Application for a pesticide sales agent license shall be in the form and shall contain information prescribed by the department. Each application shall be accompanied by a fee of five dollars ($5). All licenses issued under this section shall expire on December 31 of the year issued. The license for a pesticide sales agent may be renewed annually upon application to the department, accompanied by a fee of five dollars ($5) for each license, on or before the first day of January of the calendar year for which the license is issued.

(3) The department shall issue to each applicant who meets the requirements of this section a license that entitles the applicant to hold himself or herself out as a pesticide sales agent.

(4) No person shall hold himself or herself out as a pesticide sales agent unless that person is licensed as provided for in this section.

(5) No person shall make recommendations for the use or application of pesticides unless that person is licensed as provided for in this section.

(6) No person shall sell or distribute restricted use pesticides to the final user unless that person is licensed as provided for in this section.

(7) No license shall be issued unless the applicant holds a valid certification within this category.

SECTION 12. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish and administer a program to register trainees.

(2) A dealer shall not employ a trainee to apply pesticides manually or as the applicator directly in charge of any equipment that is licensed or should be licensed under the provisions of this chapter for the application of any pesticide without registering the trainee with the department. It shall be unlawful for any person to act as a trainee without being registered.

(3) Application for a trainee registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of five dollars ($5).

(4) Trainee registration shall be valid for ninety (90) days and shall not be reissued or renewed.

Section 13. KRS 217B.110 is amended to read as follows:

(1) If the application for renewal of any license ***or registration*** provided for in this chapter is not filed prior to March 1 in any year, a penalty of twenty-five percent (25%) shall be assessed and added to the original fee and shall be paid by the applicant before the renewal ***is***[~~license shall be~~] issued[~~; such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license~~].

(2) Any person holding a current valid license may renew ***the***[~~such~~] license for the next year without taking another examination unless the department determines that new knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed by June 1 of each year, then ***the***[~~such~~] licensee shall[~~ again~~] be required to take another examination.

(3) No license will be issued or renewed unless certification is valid for the calendar year or the applicant has met training

requirements that will allow for a renewal of certification within the calendar year for the license.

Section 14. KRS 217B.120 is amended to read as follows:

The department may ***assess civil penalties as provided by Section 20 of this Act, or may*** suspend, revoke, ***delay issuing,*** or modify the provision of any[~~ applicator's, operator's, or consultant's~~] license ***or registration*** issued under this chapter, if it finds that the applicant or ***holder***[~~licensee~~] has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.541 to 217.640;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated ***application equipment*** in a[~~ faulty,~~] careless[~~,~~] or negligent manner;

(6) Refused or, after notice, neglected to comply with the provisions of this chapter, the ***administrative regulations promulgated under this chapter***[~~rules adopted hereunder~~], or of any lawful order of the department;

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of the application of a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) Operated ***unregistered***[~~unlicensed~~] equipment;

(11) Used fraud or misrepresentation in making an application for a license ***or registration*** or renewal of a license ***or registration***;

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or ***registration***[~~permit~~];

(13) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~ such~~] a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;[~~ or~~]

(15) Impersonated any state, county, or city inspector or official***;***

(16) Made a sale to, or distributed a restricted use pesticide to, an uncertified applicator;

(17) Failed to obtain any license or registration required by this chapter;

(18) Failed to obtain or maintain financial responsibility required by this chapter;

(19) Failed to comply with the provisions of Section 19 of this Act;

(20) Failed to provide direct on-the-job supervision of a trainee by a licensed operator or applicator in the application of a pesticide;

(21) Failed to follow notification and information requirements in accordance with Section 22 of this Act, including:

  (a) Failure to provide customer written information prior to application;

  (b) Failure to place lawn marker;

  (c) Failure to meet minimum requirements for lawn marker;

  (d) Failure to furnish customer proper information at application; or

  (e) Failure to furnish prior notification of application when requested; or

(22) Failed to follow notification and information requirements in accordance with Section 23 of this Act, including:

  (a) Failure to place golf course marker immediately after application;

  (b) Failure to meet minimum requirements for golf course marker; or

  (c) Failure to furnish prior notification of application when requested.

Section 15. KRS 217B.130 is amended to read as follows:

(1) The department shall not issue ***or renew*** a ***dealer registration to a dealer applying pesticides to the lands of others***[~~pesticide applicator license in the category of right-of-way pest control or in any aerial pesticide application category~~] until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy, or certification ***of the bond or policy***[~~thereof~~], protecting persons who may suffer legal damages as a result of the applicant.[~~ All other categories shall be exempt from the requirement to furnish financial responsibility.~~]

(2) The amount of the surety bond or liability insurance as provided for in this section shall be not less than ***one million dollars ($1,000,000). The***[~~one hundred thousand dollars ($100,000) for public liability and not less than twenty-five thousand dollars ($25,000) for property damage, including loss or damage arising out of the actual use of any pesticide. Such~~] surety bond or liability insurance shall be maintained at not less than ***that amount***[~~those amounts~~] at all times during the licensed period. The department shall be notified ten (10) days prior to any reduction at the request of the applicant or cancellation of ***the***[~~such~~] surety bond or liability insurance by the surety or insurer. The total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars ($1,000) for all applicators for the total amount of liability insurance or surety bond required[~~ herein~~]. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, ***the***[~~such~~] deductible clause shall not be accepted by the department unless ***the***[~~such~~] applicant furnishes the department with a security bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

(3) Should the surety furnished become unsatisfactory, ***the***[~~said~~] applicant shall upon notice execute a new bond or insurance and shall he fail to do so, the department shall cancel ***the registration***[~~his license~~] and it shall be unlawful[~~ thereafter~~] for ***the***[~~such~~] person to engage in ***the***[~~said~~] business of applying pesticides until the bond or insurance is brought into compliance with the requirements of subsection (2) of this section and ***the registration***[~~his license~~] is reinstated by the department.

(4) Nothing in this chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though ***the***[~~such~~] use conforms to the ***administrative***[~~rules and~~] regulations of the department.

Section 16. KRS 217B.140 is amended to read as follows:

(1) The person claiming damages from pesticide application shall ***file***[~~have filed~~] with the department a written statement claiming that he has been damaged, on a form prescribed by the department***,*** within sixty (60) days after the date that damages occurred, or prior to the time that twenty-five percent (25%) of a crop damaged ***has***[~~shall have~~] been harvested. ***The***[~~Such~~] statement shall contain, but shall not be limited ***to***[~~thereto~~], the name of the person responsible for the application of ***the***[~~said~~] pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damages are claimed***,*** and the date on which it is alleged that the damage occurred. The department shall prepare a form to be furnished to persons to be used in ***those***[~~such~~] cases and ***the***[~~such~~] form shall contain[~~ such~~] other requirements as the department may deem proper. The department shall, upon receipt of ***the***[~~such~~] statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, for the damages claimed, and furnish copies of ***the***[~~such~~] statements as may be requested.

(2) The filing of ***a***[~~such~~] report or the failure to file[~~ such~~] a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file [~~such~~] a report shall not be a violation of this chapter.[~~ However,~~] If the person failing to file ***the***[~~such~~] report is the only one injured from ***the***[~~such~~] use or application of a pesticide by others, the department may, when in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or ***registration***[~~permit~~] issued under this chapter until ***the***[~~such~~] report is filed.

(3) When damage is alleged to have been done, the claimant shall permit the licensee***, registration holder,*** and his representatives, such as bondsman or insure***,*** to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that ***the***[~~such~~] damage may be examined. Failure of the claimant to permit ***the***[~~such~~] observation and examination of the damaged lands shall automatically bar the claim against the licensee ***or registration holder***.

Section 17. KRS 217B.170 is amended to read as follows:

(1) The department shall require an annual fee of ten dollars ($10) for each aircraft to be registered and a fee of ten dollars ($10) for each piece of ground equipment to be registered, in the business of applying pesticides to the lands of another within this state. Should any equipment fail to pass inspection under KRS 217B.160, the department shall, pending inquiry and reinspection, suspend or revoke the registration. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with applicable laws and administrative regulations.

(2) All ***registered***[~~licensed~~] equipment shall be identified by a license plate or decal furnished by the department, ***and***[~~at no cost to the licensee, which plate~~] shall be affixed in a location and manner upon ***the***[~~such~~] equipment as prescribed by the department.

Section 18. KRS 217B.180 is amended to read as follows:

(1) The provisions of KRS 217B.020 to 217B.180 relating to licenses ***or registration*** and requirements for their issuance shall not apply to any farmer owner of ground equipment applying nonrestricted use pesticides for himself or his farmer neighbors ***if***[~~; provided, that:~~]

~~(a)~~] he applies the pesticides for his farmer neighbors without compensation other than trading of personal services[~~;~~

~~(b) All equipment not engaged in the application of pesticides for hire shall be identified by a license plate or decal furnished by the department at no cost to the owner with an inscription informing persons that such equipment is not to be used in the application of pesticides for hire under KRS 217B.070. It is the responsibility of the owner to inform the department in writing if any changes in status are to be made~~].

(2) The licensing ***or registration*** provisions of KRS 217B.020 to 217B.180 shall not apply to any person using handpowered equipment, devices, or contrivances to apply nonrestricted use pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve (12) feet high, as an incidental part of his activity of taking care of his household lawn and yard or those of his neighbors, on the condition that ***the***[~~such~~] person shall not publicly hold himself out as being in the business of applying pesticides, and shall not accept compensation other than the trading of personal services for ***the***[~~such~~] activity.

(3) KRS 217B.020 to 217B.180 shall not apply to operators presently licensed and regulated under the provisions of KRS 249.250 to 249.340 on June 17, 1978, except that if required by EPA regulations ***the***[~~such~~] persons may be issued, without additional fees or examination, an applicator's license to enable them to purchase and use restricted use pesticides ***in accordance with***[~~pursuant to~~] the requirements of the Federal Environmental Pesticide Control Act of 1972.

(4) The registration provisions of Section 9 of this Act shall not apply to any noncommercial applicator.

(5) The licensing provisions of Section 5 of this Act shall not apply to any trainee.

Section 19. KRS 217B.190 is amended to read as follows:

(1) No person shall discard or store any pesticide or pesticide containers in[~~ such~~] a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, ***or*** pollinating insects, or to pollute any waterway in a way harmful to any wildlife[~~ therein~~].

(2) No person shall use any registered pesticide in a manner not in accordance with its label.

(3) No person shall purchase, use, or supervise the use of, a restricted use pesticide unless ***the***[~~such~~] person ***is certified***[~~be licensed~~] in a classification which permits ***the***[~~such~~] purchase, use, or supervision of use.

(4) No person shall distribute a restricted use pesticide to a person who ***does not have the appropriate certification, registration, or license***[~~is not licensed as a restricted use pesticide dealer or applicator~~] as prescribed in this chapter.

Section 20. KRS 217B.193 is amended to read as follows:

(1) ***If***[~~When~~] any of the requirements of this chapter or administrative regulations promulgated ***under this chapter***[~~pursuant thereto~~] have not been complied with, the Commissioner shall cause a notice of violation to be issued[~~ upon the permit holder~~]. The Commissioner ***may issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990, or the Commissioner may***[~~shall~~] set forth in his notice a reasonable time period, but not more than ninety (90) days, for the abatement of the violation. If any ***licensee or registration***[~~license~~] holder has not abated the violation within the period of time prescribed in the notice of violation, the Commissioner shall issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990. The notice of noncompliance shall be mailed to the ***licensee or registration***[~~license~~] holder by certified mail, return receipt requested, addressed to the[~~ license holder's~~] permanent address as shown on department records. The notice of noncompliance shall specify in what respect the ***licensee or registration***[~~license~~] holder has failed to comply with this chapter or administrative regulations promulgated ***under this chapter***[~~pursuant thereto, and the period of time established for abatement~~]. If the ***licensee or registration***[~~license~~] holder has not complied with the requirements set forth in the notice of noncompliance within the time limit allowed, the license ***or registration*** may be revoked as provided in this chapter.

(2) The Commissioner shall develop a method for calculating the civil penalty for ***a violation, or*** failure to abate a violation, within the prescribed time period as authorized by this section, and he shall promulgate a schedule of the civil penalties in an administrative regulation.

Section 21. KRS 217B.220 is amended to read as follows:

The department may issue subpoenas to compel the attendance of witnesses ***or***[~~and/or~~] production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or ***registration***[~~permit~~] issued under the provisions of this chapter.

Section 22. KRS 217B.300 is amended to read as follows:

(1) The following definitions apply to this section:

(a) "Application" means the spreading of lawn chemicals in liquid or dry form on a lawn;

(b) "Applicator for hire" means any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer;

(c) "Customer" means a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn;

(d)[~~ "Fertilizer" means any substance containing nitrogen, phosphorus, potassium or other recognized plant nutrient or compound which is used for its plant nutrient content;~~

~~(e)~~] "Lawn" means land area covered with turf kept closely mown, except land areas used for agricultural production[~~, golf courses~~], commercial production of turf, or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests;

(e)[~~(f)~~] "Lawn chemicals" means fertilizers, pesticides, or defoliants applied or intended for application to lawns;

(f)[~~(g)~~] "Structural pest" means a pest which commonly invades or attacks dwellings or structures; and

(g)[~~(h)~~]"Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(2) The following notification requirements shall be met:

(a) An applicator for hire shall provide a customer at the time of entering into a contract,[~~ either written or verbal, or a reasonable time thereafter,~~] with written information concerning lawn chemicals, application procedures, and other general guidelines about the safe use of lawn chemicals***;***[~~.~~]

(b) Immediately following application of lawn chemicals to a lawn, the applicator shall place a lawn marker at a prominent location in the lawn***;***[~~.~~]

(c) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length***;***[~~.~~]

(d) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) ***inches in height***[~~inch~~]. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator***;***[~~.~~]

(e) The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application***;***[~~.~~]

(f) For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property***; and***[~~.~~]

(g) For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.

(3) At the time of application of lawn chemicals to a lawn, an applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used***, and shall record and maintain at the business address the following information relating to the application of each lawn chemical***:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate ***and***[~~or~~] analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the lawn,[~~ and~~] the rate of application***, and the total gallons of end use product applied to the lawn***;

(f) Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration;[~~ and~~]

(g) The name and the state applicator license or certificate number of the individual actually making the application***;***

(h) Customer name, address, and date of application; and

(i) Total area of lawn treated.

(4) Any customer of an applicator for hire, or a neighbor whose residence is adjoining to a customer of an applicator for hire, may ***request***[~~receive~~] prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person***,*** or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

[~~(5) Violations of this section shall be punishable by a civil fine of not more than one hundred dollars ($100) for each violation.~~]

SECTION 23. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Section 22 of this Act relating to notification and information requirements shall not apply to any golf course or its employees.

(2) As used in this section:

(a) "Application" means the spreading of plant-regulating materials in liquid or dry form on a golf course;

(b) "Golf course" means land on which turf and ornamental care, including application of pesticides or fertilizer and storage of pesticides or fertilizer, is done for the purpose of preparing the land for use in the game of golf;

(c) "Plant-regulating materials" means fertilizers, pesticides, or defoliants applied or intended for application to a golf course; and

(d) "Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(3) The following shall be required by a golf course relating to records, notification, and information requirements:

(a) Immediately following application of plant-regulating materials on a golf course, the applicator shall place a golf course marker on the number-one (1) and number-ten (10) tees;

(b) The golf course marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length;

(c) Lettering on the golf course marker shall be in a contrasting color and shall read on one side "PLANT-REGULATING MATERIALS HAVE BEEN APPLIED. IF DESIRED, YOU MAY CONTACT THE GOLF COURSE SUPERINTENDENT FOR FURTHER INFORMATION" in letters easily readable and not less than three-eighths (3/8) inches in height. The golf course marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator;

(d) The golf course marker may be removed by the applicator or other personnel authorized by the golf course management the day following application;

(e) Any person whose residence directly adjoins a golf course may request prior notification of a plant-regulating material application by contacting the golf course superintendent's office and providing his or her name, address, and telephone number. If requested, the golf course shall provide notification in writing, in person, or by telephone. In the event the golf course cannot provide advance notice, the person shall be contacted at the time of application. It the golf course is unable to provide prior notification or direct notification to a resident because of the absence or unavailability of the resident, the golf course shall leave a written notice at the residence; and

(f) Material safety data sheets for each plant-regulating material shall be in an area of the superintendent's office where they can be easily read and accessible by patrons of the golf course.

(4) At the time of application of plant-regulating materials to a golf course, an applicator shall record and maintain the following information for each plant-regulating material used:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate and analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the golf course, the rate of application, and the total gallons of end use product applied to the golf course;

(f) The location of area treated;

(g) Any special instruction appearing on the label of the plant-regulating material applicable to the golf course use following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration; and

(h) The name and the state applicator license or certification number of the individual actually making the application.

(5) This record shall be maintained in the golf course superintendent's office and shall be readily available to review on request. This record shall be retained for three (3) years and be an inspectable item for the department.

HB 940, AN ACT relating to animal feeding operations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Animal feeding operation" means a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period; and, where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility in the normal growing season;

(2) "Animal unit" means the unit of measurement for determining the size of an animal feeding operation, as described by

Section 2 of this Act;

(3) "CAFO" or "Concentrated animal feeding operation" means an animal feeding operation with more than one thousand (1,000) animal units that does not discharge pollutants into waters of the Commonwealth;

(4) "Certified" means a determination by a qualified professional, as determined by the Agriculture Water Quality Authority, that an agriculture water quality plan is appropriate for a CAFO;

(5) "KPDES" means Kentucky Pollutant Discharge Elimination System;

(6) "NRCS" means Natural Resources Conservation Service; and

(7) "USDA" means United States Department of Agriculture.

SECTION 2. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following thresholds of animals by animal type are equal to one thousand (1,000) animal units. More than the following numbers of indicated animals are considered CAFOs:

(1) One thousand (1,000) slaughter or feeder cattle;

(2) Seven hundred (700) mature dairy cattle, whether milked or dry cows;

(3) Two thousand five hundred (2,500) swine, each weighing over twenty-five (25) kilograms (approximately fifty-five (55) pounds);

(4) Five hundred (500) horses;

(5) Ten thousand (10,000) sheep or lambs;

(6) Fifty-five thousand (55,000) turkeys;

(7) One hundred thousand (100,000) laying hens or broilers if the facility has a continuous overflow watering system;

(8) Thirty thousand (30,000) laying hens or broilers if the facility has a liquid manure system; or

(9) Five thousand (5,000) ducks.

SECTION 3. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) All persons operating CAFOs shall obtain a KPDES general permit from the cabinet.

(2) A CAFO may be required by the cabinet to obtain a KPDES individual permit if the:

(a) 1. CAFO is in an impaired watershed as determined by the Natural Resources and Environmental Protection Cabinet and identified on the Federal Clean Water Act Section 303(d) prioritized list of waters not meeting water quality standards; and

2. CAFO is in violation of any water quality laws or administrative regulations under KRS Chapter 224; or

(b) Owner or operator of the CAFO does not comply with the provisions of subsection (4) of this section.

(3) (a) All CAFOs shall complete and file with the local conservation district office a certified agriculture water quality plan, as provided by Section 5 of this Act. A CAFO may alter and file a revised certified agriculture water quality plan at any time as needed to implement additional or revised best management practices.

(b) The proper implementation of the plan shall be a condition of the CAFO's KPDES general or individual permit.

(c) Failure to reasonably comply with the provisions of the plan, as provided in subsection (4) of this section, may be cause for the cabinet to revoke the permit.

(4) (a) Except as provided in paragraph (c) of this subsection, if the cabinet gives notice to the owner or operator that the CAFO is not complying with the provisions of the KPDES permit, the owner or operator shall have ninety (90) days to bring the CAFO into compliance.

(b) If the provisions of the permit are not brought into compliance within ninety (90) days, the cabinet may extend the compliance period based on evaluation of progress towards achieving compliance by the owner or operator, or, if good faith effort has not been put forth by the owner or operator, the cabinet may revoke the permit or impose penalties as provided by this chapter.

(c) If the noncompliant condition is causing a discharge into the waters of the Commonwealth, the owner or operator shall immediately cause the discharge to cease and begin to bring the noncompliant condition into compliance.

(5) The permit shall be issued in the name of the owner or operator of a CAFO, and the owner or operator named in the permit shall be responsible for complying with the conditions of the permit.

SECTION 4. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations to administer the provisions of Sections 1 to 4 and subsection

(2) of Section 5 of this Act, but shall not impose any requirements not specifically described in Sections 1 to 4 and subsection (2) of Section 5 of this Act.

(2) If federal law or regulation is enacted that imposes more stringent requirements on CAFOs than those required under Sections 1 to 4 and Section 5 of this Act, the cabinet shall promulgate administrative regulations to comply with the federal law or regulation, but shall not impose stricter requirements than that imposed by the federal law or regulation.

SECTION 5. A NEW SECTION OF SUBCHAPTER 71 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "CAFO" or "Concentrated animal feeding operation" means an animal feeding operation with more than one thousand (1,000) animal units that does not discharge pollutants into waters of the Commonwealth;

(b) "NRCS" means Natural Resources Conservation Service; and

(c) "USDA" means United States Department of Agriculture.

(2) For concentrated animal feeding operations, the Agriculture Water Quality Authority shall:

(a) Amend its producer workbook and its best management practices to incorporate the requirements of the USDA-NRCS Comprehensive Nutrient Management Plan;

(b) Develop additional best management practices necessary to carry out the provisions of Sections 1 to 4 and this section, including, but not limited to, siting criteria and setbacks for siting and land application; and

(c) Incorporate the provisions of paragraphs (a) and (b) of this subsection into the agriculture water quality plan required by KRS 224.71-120.

(3) The cabinet shall approve experimental or alternative best management practices for concentrated animal feeding operations if the CAFO demonstrates to the cabinet that the experimental or alternative best management practice will comply with the conditions of the permit required by Section 3 of this Act.

Section 6. Whereas it is important to protect the waters and the environment of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 941, AN ACT relating to purchase of agricultural conservation easement program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.908 is amended to read as follows:

(1) The PACE board shall have the following responsibilities:

(a) Implementing a Purchase of Agricultural Conservation Easement Program in the Commonwealth as provided by this section, including the development and promulgation of any administrative regulations required;

(b) Making decisions in connection with each specific easement purchase to be made with Commonwealth funds from the agricultural enhancement fund;

(c) Evaluating, as necessary, potential sites within the Commonwealth on which agricultural conservation easements or other property interests are to be acquired, applying the criteria set forth in this section and administrative regulations; and

(d) Employing~~[the]~~ staff*, and contracting directly with land surveyors, real estate appraisers, and other licensed professionals* necessary to implement the provisions of this section.

(2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

(b) The board shall promulgate administrative regulations establishing policies and procedures for determining easement purchase priorities and for purchasing easements.

(c) The program criteria shall be designed to ensure that land is selected for easement purchase because it will make a significant contribution to agricultural production.

HB 979, AN ACT relating to aquaculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.960 is amended to read as follows:

(1) The General Assembly recognizes the importance of aquaculture to the agricultural economy of the state.

(2) "Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions.

(3) The ***Governor's Office of Agricultural Policy, the Kentucky***[~~State~~] Department of Agriculture***, and the Kentucky State University Aquaculture Program*** shall promote the development of markets for aquacultural products ***by:***

(a) Fostering the growth of aquaculture production in the Commonwealth;

(b) Providing aquaculture producers and entrepreneurs with access to funds, when available, to develop aquaculture enterprises;

(c) Assisting in developing infrastructure components; and

(d) Promoting research into aquaculture marketing, consumer demand, local and regional aquaculture opportunities and problems, and value-added product development.

(4) The ***Governor's Office of Agricultural Policy and the*** department shall work cooperatively with ***the*** Kentucky State ***University***[~~University's~~] Aquaculture Program utilizing its expertise in the area of aquaculture. The ***office and the*** department also shall work cooperatively with other state agencies in assisting aquaculture producers to obtain the necessary permits.

(5) The Governor's Office of Agricultural Policy, the Kentucky Department of Agriculture, and the Kentucky State University Aquaculture Program shall separately and independently promulgate administrative regulations in accordance with KRS Chapter 13A that will enable each of them to administer and implement programs to carry out the provisions of subsection (3) of this section.

(6) The Governor's Office of Agricultural Policy, the Kentucky Department of Agriculture, and Kentucky State University shall submit a written report to the Legislative Research Commission semiannually regarding the administrative, financial, and programmatic activities outlined in this section.

SB 57, AN ACT relating to boiler and pressure vessel safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;

(b) ***Standard and miniature antique and hobby boiler operated tractors and equipment used solely for exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge;***

(c) Boilers or pressure vessels located at any oil refineries;

(d)[~~(c)~~]Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

(e)[~~(d)~~]Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(f)[~~(e)~~] Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families;

(g)[~~(f)~~] Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;

(h)[~~(g)~~] Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;

(i)[~~(h)~~] Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;

(j)[~~(i)~~] Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;

(k)[~~(j)~~] Single wall pressure vessels having an inside diameter of six (6) inches;

(l)[~~(k)~~] Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;

(m)[~~(l)~~] Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;
2. Water temperature of two hundred ten (210) degrees Fahrenheit;

3. Water storage capacity of one hundred twenty (120) gallons;

(n)[~~(m)~~] Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:

1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;
2. Six (6) gallon water containing capacity;
3. Three hundred fifty (350) degrees Fahrenheit water temperature;

(o)[~~(n)~~]Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;
2. A water temperature of two hundred ten (210) degrees Fahrenheit;
3. A water containing capacity of one hundred twenty (120) gallons;

(p)[~~(o)~~]Pressure vessels which may be classified as:

1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or
2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.

(3) KRS 236.130 shall not apply to steam boilers on farm tractors or steam engines which are used only in parades or other public events and on which there shall be no passengers other than the operators.

The House Committee Substitute No. 1 to **SB 57** is as follows:

SB 57, AN ACT relating to boiler and pressure vessel safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;

(b) Boilers or pressure vessels located at any oil refineries;

(c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

(d) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families;

(f) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;

(g) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;

(h) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;

(i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;

(j) Single wall pressure vessels having an inside diameter of six (6) inches;

(k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;

(l) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. Water temperature of two hundred ten (210) degrees Fahrenheit;

3. Water storage capacity of one hundred twenty (120) gallons;

(m) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:

1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;

2. Six (6) gallon water containing capacity;

3. Three hundred fifty (350) degrees Fahrenheit water temperature;

(n) Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. A water temperature of two hundred ten (210) degrees Fahrenheit;

3. A water containing capacity of one hundred twenty (120) gallons;

(o) Pressure vessels which may be classified as:

1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or

2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.

(3) ***The fees required by*** KRS 236.130 ***and 236.120(1)*** shall not apply to ***standard and miniature antique and hobby boiler-operated tractors and equipment used solely for exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge***~~[steam boilers on farm tractors or steam engines which are used only in parades or other public events and on which there shall be no passengers other than the operators]~~.

SB 300, AN ACT relating to fertilizer and pesticide use and application.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.040 is amended to read as follows:

For the purposes of this chapter, unless the context requires otherwise:

(1) "Pest" means:

(a) Any insect, snail, slug, rodent, nematode, fungus, weed; ***or***~~[and]~~

(b) Any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department declares to be a pest;

(2) "Pesticide" means:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; ***or***~~[and]~~

(c) Any substance or mixture of substances intended to be used as a spray adjuvant***, once they have been mixed with an EPA registered product***;

(3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission;

(4) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues;

(5) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(6) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example beetles, bugs, bees, wasps, and flies, and includes other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example spiders, mites, ticks, centipedes, and wood lice, and also nematodes and other worms, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(7) "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than

mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(8) "Fertilizer" means any substance containing one (1) or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products exempted by administrative regulation;

(9) "Weed" means any plant which grows where not wanted;

(10) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, and may also be called nemas or eelworms;

(11) "Snails or slugs" include all harmful mollusks;

(12) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(13) "Equipment" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in the land, but shall not include any pressurized hand-sized household device used to apply any pesticide;

(14) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by administrative regulation of the department;

(15)~~["Engage in business" means any application of pesticide by any person upon lands of another;~~

~~(16)]~~ "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices, and contrivances and machinery appurtenant *to*~~[thereto]~~ or situated ***on them***~~[thereon]~~, fixed or mobile, including any used for transportation;

(16)~~[(17)]~~ "Pesticide applicator" means any ***individual employed or supervised by a pesticide operator to apply pesticides. The term does not include trainees***~~[person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands of another]~~;

(17)~~[(18)]~~ "Pesticide operator" means any ***individual who owns or manages a pesticide application business that is engaged in the business of applying pesticides upon the lands of another***~~[person employed by a pesticide applicator who operates equipment for the application of pesticides or applies pesticides manually. This term does not include employees who work only under direct "on-the-job" supervision of a licensed pesticide applicator or licensed pesticide operator]~~;

(18)~~[(19)]~~ "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision, or aid, or recommends the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests;

(19)~~[(20)]~~ ***"Noncommercial applicator"***~~["Public operator"]~~ means any ***individual employed***~~[person in charge of any equipment used]~~ by ***golf courses,*** municipal corporations, public utilities, or other governmental agencies ***making applications of pesticides to lands owned, occupied, or managed by his or her employer***~~[applying pesticides]~~;

(20)~~[(21)]~~ "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests; including, but not limited to mammals, birds, and aquatic life;

(21)~~[(22)]~~ "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive, and, having received, deliver or offer to deliver any pesticides in this state excepting internal distribution within a company or organization;

(22)~~[(23)]~~ "EPA" means the United States Environmental Protection Agency;

(23)~~[(24)]~~ "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or to any of its containers or wrappers;

~~[(25) "Restricted use pesticide dealer" means any person who distributes restricted use pesticides except manufacturers of restricted use pesticides who distribute their products solely to "restricted use pesticide dealers";]~~

(24)~~[(26)]~~ "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect *of it*~~[thereof]~~, and which is in a package or container separate from that of the other pesticide with which it is to be used;~~[and]~~

(25)~~[(27)]~~ "Commissioner" means the Commissioner of the Department of Agriculture*;*

(26) "Dealer" means any person that engages in the storage of bulk fertilizer or a restricted use pesticide for the purpose of redistribution or direct resale, or engages in the business of applying any pesticide to the lands of another. A "dealer" shall not include a manufacturer of a restricted use pesticide or a fertilizer who distributes his or her product solely to a dealer;

(27) "Trainee" means an individual who has been employed by a dealer and is working under the direct on-the-job supervision of a licensed operator or applicator;

(28) "Direct on-the-job supervision" means having a licensed operator or licensed applicator physically on site and directly supervising or training an individual in the application of a pesticide;

(29) "Branch office" means any location of a dealer other than its designated principal place of business location, but does not include on-premises and off-premises bulk storage or receiving warehouses used solely for the purpose of customer order filling;

(30) "Applicant" means a person applying for a license or registration under this chapter;

(31) "Pesticide sales agent" means an individual who sells or distributes restricted use pesticides or an individual who sells and makes recommendations for the use or application of pesticides to the final user;

(32) "Limited license" means a license that is issued by the department for noncommercial use, and shall be valid only when an individual is making applications of pesticides to lands owned, occupied, or managed by his or her employer; and

(33) "Certified crop advisor" means an individual who has met the requirements of and has been certified by the Kentucky Certified Crop Advisor Board.

Section 2. KRS 217B.050 is amended to read as follows:

(1) The department shall administer and enforce the provisions of this chapter and ***promulgate***~~[issue]~~ administrative regulations to carry out the provisions of this chapter and in the administrative regulations may prescribe methods to be used in the storage of fertilizers and pesticides, and application of pesticides. Where the department finds that the administrative regulations are necessary to carry out the purpose and intent of this chapter, the administrative regulations may relate to the time, place, manner, and method of storage and application of the pesticides and storage of fertilizers and pesticides, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to:

(a) Plants, including forage plants, on adjacent or nearby lands;

(b) Wildlife in the adjoining or nearby areas;

(c) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and

(d) Pollinating insects, animals, or persons.

(2) In ***promulgating***~~[issuing]~~ the administrative regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state and of the federal government.

(3) The department may by administrative regulation adopt a list of "restricted use pesticides" for the state or for designated areas within the state if it finds that the characteristics of the pesticides require restricting their use to prevent injury on lands other than the land to which they are applied, or to persons, animals, crops, or pests or vegetation other than the pests or vegetation which they are intended to destroy. For the purpose of uniformity of requirements between the states and the federal government, the department may adopt the list of "restricted use pesticides" as established by the Environmental Protection Agency or other federal or state agencies.

(4) The department may establish additional classifications of applicator ***or operator*** licenses as required for conformance with the Federal Environmental Pesticide Control Act of 1972. The classifications may include private farmer applicators, commercial establishment applicators, and government employee applicators not specifically mentioned in this chapter. The administrative regulations may specify licensing conditions, procedures, and fees not to exceed those fees specified for other licensees under this chapter.

Section 3. KRS 217B.060 is amended to read as follows:

(1) The department may classify licenses to be issued under this chapter. *The*~~[Such]~~ classifications may include but not be limited to ornamental or agricultural pesticide applicators, or right-of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides. Each classification shall be subject to separate testing procedures and requirements.~~[No person shall be required to pay an additional license fee if such person desires to be licensed in one (1) or all of the license classifications provided for by the department under the authority of this section.~~]

(2) Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, and license classification or classifications the applicant is applying for, and shall include the following:

(a) The full name of the person applying for the license;

(b) If the applicant is a receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of the receiver or trustee, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;

(c) The principal business address of the applicant in the state and elsewhere;

(d) The name and address of a person, who may be the Secretary of State, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;

(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides; and

(f) Any other necessary information prescribed by the department.

(3) The department shall require an applicant for a license to show upon examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he or she has applied for. The applicant shall also demonstrate a knowledge of the proper use of and calibration of the various equipment that he or she may have applied for a license to operate, including any pressurized, hand-sized devices. The examination shall require a working knowledge of:

(a) The proper use of the equipment;

(b) The hazards that may be involved in applying pesticides, including:

1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;

2. The proper meteorological conditions for the application of pesticides and the precautions to be taken;

3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

4. The effect of the application of pesticides to wildlife in the area, including aquatic life;

5. The identity and classification of pesticides used and the effects of their application in particular circumstances; and

6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation;

(c) Calculating the concentration of pesticides to be used in particular circumstances;

(d) Identification of pests to be controlled by common name only and the damages caused by the pests;

(e) Protective clothing and respiratory equipment required during the handling and application of pesticides;

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment that the applicant proposes to use; and

(g) Applicable state and federal pesticide laws and regulations.

(4) If the department finds the applicant qualified to apply pesticides in the classifications he or she has applied for, if the applicant files the bond or insurance required under Section 15 of this Act, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he or she is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior to that by the department for cause, or the financial security required under Section 15 of this Act is not dated to expire at an earlier date, in which case the license shall be dated to expire upon the expiration date of the financial security.

Section 4. KRS 217B.070 is amended to read as follows:

(1) No person shall engage in the business of applying pesticides to the lands of another within this state at any time without a pesticide *operator's*~~[applicator's]~~ license issued by the department. The department shall require an annual fee of *twenty-five dollars ($25)*~~[$25]~~ for each pesticide *operator's*~~[applicator's]~~ license issued~~[and, in addition, an inspection fee of $10 for each aircraft to be licensed and $10 for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection under KRS 217B.160, making it necessary for a second inspection to be made, the department shall require an added inspection fee of $5. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations]~~.

(2) *No license shall be issued unless the applicant holds a valid certification within this category*~~[Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, license classification or classifications the applicant is applying for, and shall include the following:~~

~~(a) The full name of the person applying for the license;~~

~~(b) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;~~

~~(c) The principal business address of the applicant in the state and elsewhere;~~

~~(d) The name and address of a person, who may be the Secretary of State, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;~~

~~(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides;~~

~~(f) Any other necessary information prescribed by the department]~~.

(3) ***No license shall be issued unless the applicant is registered as a dealer or is employed by a person who is registered as a dealer***~~[The department shall require an applicant for a license to show upon examination that he possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he has applied for, manually or with the various equipment that he may have applied for a license to operate. The examination shall require a working knowledge of:~~

~~(a) The proper use of the equipment.~~

~~(b) The hazards that may be involved in applying pesticides, including:~~

~~1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;~~

~~2. The proper meteorological conditions for the application of pesticides and the precautions to be taken therewith;~~

~~3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;~~

~~4. The effect of the application of pesticides to wildlife in the area, including aquatic life;~~

~~5. The identity and classification of pesticides used and the effects of their application in particular circumstances;~~

~~6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation.~~

~~(c) Calculating the concentration of pesticides to be used in particular circumstances.~~

~~(d) Identification of pests to be controlled by common name only and the damages caused by such pests.~~

~~(e) Protective clothing and respiratory equipment required during the handling and application of pesticides.~~

~~(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.~~

~~(g) Applicable state and federal pesticide laws and regulations.~~

~~(4) If the department finds the applicant qualified to apply pesticides in the classifications he has applied for and, if the applicant files the bond or insurance required under KRS 217B.130, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the department for cause or the financial security required under KRS 217B.130 is not dated to expire at an earlier date, in which case said license shall be dated to expire upon expiration date of said financial security]~~.

Section 5. KRS 217B.080 is amended to read as follows:

(1) Except as provided in Section 6 of this Act, it shall be unlawful for any person to act as an employee of a pesticide ***operator or dealer***~~[applicator]~~ and apply pesticides manually***,*** or as the ***applicator***~~[operator]~~ directly in charge of any equipment which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained an ***applicator's***~~[operator's]~~ license from the department.~~[Such]~~ An ***applicator's***~~[operator's]~~ license shall be in addition to any other license or permit required by law for the operation or use of any~~[such]~~ equipment. Any person applying for ~~[such]~~ an ***applicator's***~~[operator's]~~ license shall file an application on a form prescribed by the department on or before January 1 of each year. Application for a license to apply pesticides shall be accompanied by a license fee of ***ten dollars($10)***~~[$10]~~. The provisions of this section shall not apply to any individual who has passed the examination provided for in subsection (3) of ***Section 3 of this Act***~~[KRS 217B.070]~~, and is a licensed pesticide ***operator***~~[applicator]~~. If the department finds the applicant qualified to apply pesticides in the classifications he has applied for after examinations as provided for in subsection (3) of ***Section 3 of this Act***~~[KRS 217B.070]~~, and if the applicant applying for a license to engage in aerial applications of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide ***applicator***~~[operator]~~ license limited to the classifications for which he is qualified which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior ***to that***~~[thereto]~~ by the department for cause as provided for in KRS 217B.120.

(2) No license shall be issued unless the applicant holds a valid certification within this category.

(3) No license shall be issued unless the applicant is employed or supervised by a person who holds a valid operator's license.

Section 6. KRS 217B.090 is amended to read as follows:

(1) It shall be unlawful for any person to act as a noncommercial applicator without having obtained a noncommercial

applicator license from the department. Any person applying for a noncommercial applicator's license shall file an application on a form prescribed by the department on or before January 1 of each year. The provisions of this section shall not apply to any individual who is a licensed pesticide operator or applicator. If the department finds the applicant qualified to apply pesticides, the department shall issue a limited license without a fee to a noncommercial applicator, which shall be valid only when the individual is applying pesticides on land owned, occupied, or managed by his or her employer. The noncommercial applicator license shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior to that by the department for cause as provided for in Section 14 of this Act.[~~Municipal corporations, and public utilities, or any other governmental agency except state agencies shall be subject to the provisions of this chapter and rules adopted thereunder; the public operator in charge of any equipment used by any municipal corporations, public utilities, or any governmental agencies, shall be subject to the provisions of KRS 217B.070(3) and 217B.080, and the department shall issue a limited license without a fee to such public operators which shall be valid only when such public operators are acting as operators on equipment used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides to experimental plots. Such agencies, municipal corporations, and public utilities,~~]

(2) ***Employers of noncommercial applicators*** shall be subject to legal recourse by any person damaged by ***the***[~~such~~] application of any pesticide, and ***the***[~~such~~] action may be brought in the county where the damage or some part ***of the damage***[~~thereof~~] occurred.

(3) No license shall be issued unless the applicant holds a valid certification within this category.

(4) A limited license cannot be upgraded without retesting.

Section 7. KRS 217B.100 is amended to read as follows:

(1) No person shall perform services as a pest control consultant without first procuring from the department a license in the classifications he has applied for under KRS 217B.060. Application for a license shall be on a form prescribed by the department and shall include the applicable information stipulated in subsection (2) of ***Section 3 of this Act***[~~KRS 217B.070~~]. The application for a license shall be accompanied by an annual fee of ***fifty dollars ($50)***[~~$50~~].

(2) Each applicant for a pest control consultant's license shall be required to present to the department satisfactory evidence of training and experience providing a basic background to understand pest control principles. ***The***[~~Such~~] applicant shall be required to pass satisfactorily a written examination to be prescribed by the department to demonstrate the applicant's specific knowledge under subsection (3) of ***Section 3 of this Act***[~~KRS 217B.070~~].

(3) If an applicant provides a copy of a valid Kentucky Certified Crop Advisor certification to the department, the test and fee for a consultant license may be waived.

Section 8. KRS 217B.103 is amended to read as follows:

(1) The department may suspend for not longer than ten (10) days, pending inquiry, and, after opportunity for a hearing, the department may deny, suspend, revoke, or modify the provision of any license issued under KRS 217B.100 if it finds that the applicant or licensee or his employee has committed any of the following acts, each of which is declared to be a violation of this section:

(a) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(b) Made a pesticide recommendation not in accordance with the label registered ***as provided by***[~~pursuant to~~] KRS 217.541 to 217.640;

(c) Violated any provision of this chapter or any ***administrative***[~~rule or~~] regulation ***promulgated***[~~adopted~~] by the department or of any lawful order of the department;

(d) Failed to pay the original or renewal license fee when due[~~, and continue to sell restricted use pesticides without paying the license fee, or sold restricted use pesticides without a license~~];

(e) Was guilty of gross negligence, incompetency, or misconduct in acting as a ***consultant, or***[~~pesticide dealer;~~

~~(f) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;~~

~~(g) Made false or fraudulent records, invoices, or reports;~~

~~(h)~~] used fraud or misrepresentation in making an application for a license or renewal of a license[~~, or in selling or offering to sell restricted use pesticides~~];

(f)[~~(i)~~] Refused or neglected to comply with any limitations or restrictions on or in a duly issued license;

(g)[~~(j)~~] Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~ such~~] a licensed or unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person; ***or***

(h)[~~(k)~~] Impersonated any state, county, or city inspector or official[~~;~~

~~(l) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted~~

~~regulations~~].

(2) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license[~~hereunder~~] until ***the***[~~such~~] time has elapsed from the date of the order revoking ***the***[~~said~~] license as established by the department, not to exceed two (2) years, or if an appeal is taken from ***the***[~~said~~] order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining ***the***[~~said~~] revocation.

Section 9. KRS 217B.105 is amended to read as follows:

(1) No person shall act in the capacity of a[~~pesticide~~] dealer, or shall engage or offer to engage in the business of, advertise as, or assume to act as a[~~restricted use pesticide~~] dealer ***without having registered as a dealer with the department***[~~unless he is licensed annually as provided in this section. A separate license and fee shall be required for each location or outlet from which restricted use pesticides are distributed~~].

(2) Application for a[~~pesticide~~] dealer ***registration***[~~license~~] shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of ***fifty dollars ($50)***[~~five dollars ($5)~~]. All ***registrations***[~~licenses~~] issued under this section shall expire on December 31 of the year for which they are issued. The ***registration***[~~license~~] for a[~~pesticide~~] dealer may be renewed annually upon application to the department, accompanied by a fee of ***fifty dollars ($50)***[~~five dollars ($5)~~] for each ***registration***[~~license~~], on or before the first day of January of the calendar year for which the ***registration***[~~license~~] is issued.

(3) ***No person shall be registered as a dealer without proof of financial responsibility as required by Section 15 of this Act.***

(4) A dealer shall register each branch office location.

(5) Application for a branch office registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of twenty-five dollars ($25). All registrations issued under this section shall expire on December 31. The registration for a branch office may be renewed annually upon application to the department, accompanied by a fee of twenty-five dollars ($25) for each registration, on or before the first of January of the calendar year for which the registration is issued. No branch office registration may be issued unless the applicant is registered as a dealer.

(6) The department shall issue to each applicant who satisfies the requirements of this section a ***registration***[~~license~~] which entitles the applicant to conduct the business described in the application for the calendar year for which the ***registration***[~~license~~] is issued, unless the ***registration***[~~license~~] is sooner revoked or suspended.

(7)[~~(4)~~]The department shall ***promulgate administrative***[~~prescribe~~] regulations requiring[~~restricted use pesticide~~] dealers to maintain[~~such~~] records with respect to their operations as it determines are necessary for the effective enforcement of this chapter. ***The***[~~Such~~] records shall include, but not be limited to[~~:~~] brands and amounts of restricted use pesticides sold***, and the***[~~;~~] buyer's name, address***, use of the pesticide,*** and ***certification***[~~applicator's license~~] number***.***[~~; provided that, no~~] Records required under this section shall extend to financial data, sales data,[~~other than amount and~~] shipment data,[~~pricing data~~] and personnel data. ***The***[~~Such~~] records are to be retained for a period of two (2) years from the time of sale. For the purposes of enforcing the provisions of this chapter, any[~~pesticide~~] dealer shall, upon request of the department, furnish or permit the department at all reasonable times to have access to, and to copy, records as required by this section.

Section 10. KRS 217B.107 is amended to read as follows:

Each[~~pesticide~~] dealer shall be responsible for the actions of every person who acts as his employee or agent in the solicitation or sale of restricted use pesticides, and in all claims and recommendations for use or application of restricted use pesticides.

SECTION 11. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a licensure program for pesticide sales agents. The department shall require an applicant for licensure to show upon examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides.

(2) Application for a pesticide sales agent license shall be in the form and shall contain information prescribed by the department. Each application shall be accompanied by a fee of five dollars ($5). All licenses issued under this section shall expire on December 31 of the year issued. The license for a pesticide sales agent may be renewed annually upon application to the department, accompanied by a fee of five dollars ($5) for each license, on or before the first day of January of the calendar year for which the license is issued.

(3) The department shall issue to each applicant who meets the requirements of this section a license that entitles the applicant to hold himself or herself out as a pesticide sales agent.

(4) No person shall hold himself or herself out as a pesticide sales agent unless that person is licensed as provided for in this section.

(5) No person shall make recommendations for the use or application of pesticides unless that person is licensed as provided for in this section.

(6) No person shall sell or distribute restricted use pesticides to the final user unless that person is licensed as provided for in this section.

(7) No license shall be issued unless the applicant holds a valid certification within this category.

SECTION 12. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish and administer a program to register trainees.

(2) A dealer shall not employ a trainee to apply pesticides manually or as the applicator directly in charge of any equipment that is licensed or should be licensed under the provisions of this chapter for the application of any pesticide without registering the trainee with the department. It shall be unlawful for any person to act as a trainee without being registered.

(3) Application for a trainee registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of five dollars ($5).

(4) Trainee registration shall be valid for ninety (90) days and shall not be reissued or renewed.

Section 13. KRS 217B.110 is amended to read as follows:

(1) If the application for renewal of any license ***or registration*** provided for in this chapter is not filed prior to March 1 in any year, a penalty of twenty-five percent (25%) shall be assessed and added to the original fee and shall be paid by the applicant before the renewal ***is***[~~license shall be~~] issued[~~; such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license~~].

(2) Any person holding a current valid license may renew ***the***[~~such~~] license for the next year without taking another examination unless the department determines that new knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed by June 1 of each year, then ***the***[~~such~~] licensee shall[~~ again~~] be required to take another examination.

(3) No license will be issued or renewed unless certification is valid for the calendar year or the applicant has met training requirements that will allow for a renewal of certification within the calendar year for the license.

Section 14. KRS 217B.120 is amended to read as follows:

The department may ***assess civil penalties as provided by Section 20 of this Act, or may*** suspend, revoke, ***delay issuing,*** or modify the provision of any[~~ applicator's, operator's, or consultant's~~] license ***or registration*** issued under this chapter, if it finds that the applicant or ***holder***[~~licensee~~] has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.541 to 217.640;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated ***application equipment*** in a[~~ faulty,~~] careless[~~,~~] or negligent manner;

(6) Refused or, after notice, neglected to comply with the provisions of this chapter, the ***administrative regulations promulgated under this chapter***[~~rules adopted hereunder~~], or of any lawful order of the department;

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of the application of a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) Operated ***unregistered***[~~unlicensed~~] equipment;

(11) Used fraud or misrepresentation in making an application for a license ***or registration*** or renewal of a license ***or registration***;

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or ***registration***[~~permit~~];

(13) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~ such~~] a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;[~~ or~~]

(15) Impersonated any state, county, or city inspector or official***;***

(16) Made a sale to, or distributed a restricted use pesticide to, an uncertified applicator;

(17) Failed to obtain any license or registration required by this chapter;

(18) Failed to obtain or maintain financial responsibility required by this chapter;

(19) Failed to comply with the provisions of Section 19 of this Act;

(20) Failed to provide direct on-the-job supervision of a trainee by a licensed operator or applicator in the application of a pesticide;

(21) Failed to follow notification and information requirements in accordance with Section 22 of this Act, including:

- ***(a) Failure to provide customer written information prior to application;***
- ***(b) Failure to place lawn marker;***
- ***(c) Failure to meet minimum requirements for lawn marker;***
- ***(d) Failure to furnish customer proper information at application; or***
- ***(e) Failure to furnish prior notification of application when requested; or***

(22) Failed to follow notification and information requirements in accordance with Section 23 of this Act, including:

- ***(a) Failure to place golf course marker immediately after application;***
- ***(b) Failure to meet minimum requirements for golf course marker; or***
- ***(c) Failure to furnish prior notification of application when requested***.

Section 15. KRS 217B.130 is amended to read as follows:

(1) The department shall not issue ***or renew*** a ***dealer registration to a dealer applying pesticides to the lands of others***~~[pesticide applicator license in the category of right-of-way pest control or in any aerial pesticide application category]~~ until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy, or certification ***of the bond or policy***~~[thereof]~~, protecting persons who may suffer legal damages as a result of the applicant.~~[All other categories shall be exempt from the requirement to furnish financial responsibility.]~~

(2) The amount of the surety bond or liability insurance as provided for in this section shall be not less than ***one million dollars ($1,000,000. The***~~[one hundred thousand dollars ($100,000) for public liability and not less than twenty-five thousand dollars ($25,000) for property damage, including loss or damage arising out of the actual use of any pesticide. Such]~~ surety bond or liability insurance shall be maintained at not less than ***that amount***~~[those amounts]~~ at all times during the licensed period. The department shall be notified ten (10) days prior to any reduction at the request of the applicant or cancellation of ***the***~~[such]~~ surety bond or liability insurance by the surety or insurer. The total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars ($1,000) for all applicators for the total amount of liability insurance or surety bond required~~[herein]~~. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, ***the***~~[such]~~ deductible clause shall not be accepted by the department unless ***the***~~[such]~~ applicant furnishes the department with a security bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

(3) Should the surety furnished become unsatisfactory, ***the***~~[said]~~ applicant shall upon notice execute a new bond or insurance and shall he fail to do so, the department shall cancel ***the registration***~~[his license]~~ and it shall be unlawful~~[thereafter]~~ for ***the***~~[such]~~ person to engage in ***the***~~[said]~~ business of applying pesticides until the bond or insurance is brought into compliance with the requirements of subsection (2) of this section and ***the registration***~~[his license]~~ is reinstated by the department.

(4) Nothing in this chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though ***the***~~[such]~~ use conforms to the ***administrative***~~[rules and]~~ regulations of the department.

Section 16. KRS 217B.140 is amended to read as follows:

(1) The person claiming damages from pesticide application shall ***file***~~[have filed]~~ with the department a written statement claiming that he has been damaged, on a form prescribed by the department***,*** within sixty (60) days after the date that damages occurred, or prior to the time that twenty-five percent (25%) of a crop damaged ***has***~~[shall have]~~ been harvested. ***The***~~[Such]~~ statement shall contain, but shall not be limited ***to***~~[thereto]~~, the name of the person responsible for the application of ***the***~~[said]~~ pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damages are claimed***,*** and the date on which it is alleged that the damage occurred. The department shall prepare a form to be furnished to persons to be used in ***those***~~[such]~~ cases and ***the***~~[such]~~ form shall contain~~[such]~~ other requirements as the department may deem proper. The department shall, upon receipt of ***the***~~[such]~~ statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, for the damages claimed, and furnish copies of ***the***~~[such]~~ statements as may be requested.

(2) The filing of ***a***~~[such]~~ report or the failure to file~~[such]~~ a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file ~~[such]~~ a report shall not be a violation of this chapter.~~[However,]~~ If the person failing to file ***the***~~[such]~~ report is the only one injured from ***the***~~[such]~~ use or application of a pesticide by others, the department may, when in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or

registration[~~permit~~] issued under this chapter until ***the***[~~such~~] report is filed.

(3) When damage is alleged to have been done, the claimant shall permit the licensee***, registration holder,*** and his representatives, such as bondsman or insure, to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that ***the***[~~such~~] damage may be examined. Failure of the claimant to permit ***the***[~~such~~] observation and examination of the damaged lands shall automatically bar the claim against the licensee ***or registration holder***.

Section 17. KRS 217B.170 is amended to read as follows:

(1) The department shall require an annual fee of ten dollars ($10) for each aircraft to be registered and a fee of ten dollars ($10) for each piece of ground equipment to be registered, in the business of applying pesticides to the lands of another within this state. Should any equipment fail to pass inspection under KRS 217B.160, the department shall, pending inquiry and reinspection, suspend or revoke the registration. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with applicable laws and administrative regulations.

(2) All ***registered***[~~licensed~~] equipment shall be identified by a license plate or decal furnished by the department, ***and***[~~at no cost to the licensee, which plate~~] shall be affixed in a location and manner upon ***the***[~~such~~] equipment as prescribed by the department.

Section 18. KRS 217B.180 is amended to read as follows:

(1) The provisions of KRS 217B.020 to 217B.180 relating to licenses ***or registration*** and requirements for their issuance shall not apply to any farmer owner of ground equipment applying nonrestricted use pesticides for himself or his farmer neighbors ***if***[~~; provided, that:~~

~~(a)~~] he applies the pesticides for his farmer neighbors without compensation other than trading of personal services[~~;~~

~~(b) All equipment not engaged in the application of pesticides for hire shall be identified by a license plate or decal furnished by the department at no cost to the owner with an inscription informing persons that such equipment is not to be used in the application of pesticides for hire under KRS 217B.070. It is the responsibility of the owner to inform the department in writing if any changes in status are to be made~~].

(2) The licensing ***or registration*** provisions of KRS 217B.020 to 217B.180 shall not apply to any person using handpowered equipment, devices, or contrivances to apply nonrestricted use pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve (12) feet high, as an incidental part of his activity of taking care of his household lawn and yard or those of his neighbors, on the condition that ***the***[~~such~~] person shall not publicly hold himself out as being in the business of applying pesticides, and shall not accept compensation other than the trading of personal services for ***the***[~~such~~] activity.

(3) KRS 217B.020 to 217B.180 shall not apply to operators presently licensed and regulated under the provisions of KRS 249.250 to 249.340 on June 17, 1978, except that if required by EPA regulations ***the***[~~such~~] persons may be issued, without additional fees or examination, an applicator's license to enable them to purchase and use restricted use pesticides ***in accordance with***[~~pursuant to~~] the requirements of the Federal Environmental Pesticide Control Act of 1972.

(4) The registration provisions of Section 9 of this Act shall not apply to any noncommercial applicator.

(5) The licensing provisions of Section 5 of this Act shall not apply to any trainee.

Section 19. KRS 217B.190 is amended to read as follows:

(1) No person shall discard or store any pesticide or pesticide containers in[~~ such~~] a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, ***or*** pollinating insects, or to pollute any waterway in a way harmful to any wildlife[~~ therein~~].

(2) No person shall use any registered pesticide in a manner not in accordance with its label.

(3) No person shall purchase, use, or supervise the use of, a restricted use pesticide unless ***the***[~~such~~] person ***is certified***[~~be licensed~~] in a classification which permits ***the***[~~such~~] purchase, use, or supervision of use.

(4) No person shall distribute a restricted use pesticide to a person who ***does not have the appropriate certification, registration, or license***[~~is not licensed as a restricted use pesticide dealer or applicator~~] as prescribed in this chapter.

Section 20. KRS 217B.193 is amended to read as follows:

(1) ***If***[~~When~~] any of the requirements of this chapter or administrative regulations promulgated ***under this chapter***[~~pursuant thereto~~] have not been complied with, the Commissioner shall cause a notice of violation to be issued[~~ upon the permit holder~~]. The Commissioner ***may issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990, or the Commissioner may***[~~shall~~] set forth in his notice a reasonable time period, but not more than ninety (90) days, for the abatement of the violation. If any ***licensee or registration***[~~license~~] holder has not abated the violation within the period of time prescribed in the notice of violation, the Commissioner shall issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990. The notice of noncompliance shall be mailed to the ***licensee or registration***[~~license~~] holder by certified mail, return receipt requested, addressed to the[~~ license holder's~~] permanent address as shown on department records. The notice of noncompliance shall

specify in what respect the ***licensee or registration***[~~license~~] holder has failed to comply with this chapter or administrative regulations promulgated ***under this chapter***[~~pursuant thereto, and the period of time established for abatement~~]. If the ***licensee or registration***[~~license~~] holder has not complied with the requirements set forth in the notice of noncompliance within the time limit allowed, the license ***or registration*** may be revoked as provided in this chapter.

(2) The Commissioner shall develop a method for calculating the civil penalty for ***a violation, or*** failure to abate a violation***,*** within the prescribed time period as authorized by this section, and he shall promulgate a schedule of the civil penalties in an administrative regulation.

Section 21. KRS 217B.220 is amended to read as follows:

The department may issue subpoenas to compel the attendance of witnesses ***or***[~~and/or~~] production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or ***registration***[~~permit~~] issued under the provisions of this chapter.

Section 22. KRS 217B.300 is amended to read as follows:

(1) The following definitions apply to this section:

(a) "Application" means the spreading of lawn chemicals in liquid or dry form on a lawn;

(b) "Applicator for hire" means any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied or managed by his employer;

(c) "Customer" means a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn;

(d)[~~"Fertilizer" means any substance containing nitrogen, phosphorus, potassium or other recognized plant nutrient or compound which is used for its plant nutrient content;~~

~~(e)~~] "Lawn" means land area covered with turf kept closely mown, except land areas used for agricultural production[~~, golf courses~~], commercial production of turf, or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests;

(e)[~~(f)~~] "Lawn chemicals" means fertilizers, pesticides, or defoliants applied or intended for application to lawns;

(f)[~~(g)~~] "Structural pest" means a pest which commonly invades or attacks dwellings or structures; and

(g)[~~(h)~~]"Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(2) The following notification requirements shall be met:

(a) An applicator for hire shall provide a customer at the time of entering into a contract,[~~ either written or verbal, or a reasonable time thereafter,~~] with written information concerning lawn chemicals, application procedures, and other general guidelines about the safe use of lawn chemicals***;***[~~.~~]

(b) Immediately following application of lawn chemicals to a lawn, the applicator shall place a lawn marker at a prominent location in the lawn***;***[~~.~~]

(c) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length***;***[~~.~~]

(d) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) ***inches in height***[~~inch~~]. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator***;***[~~.~~]

(e) The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application***;***[~~.~~]

(f) For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property***; and***[~~.~~]

(g) For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.

(3) At the time of application of lawn chemicals to a lawn, an applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used***, and shall record and maintain at the business address the following information relating to the application of each lawn chemical***:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate ***and***[~~or~~] analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the lawn***,***[~~ and~~] the rate of application***, and the total gallons of*** *end use product applied to the lawn*;

(f) Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration;~~[and]~~

(g) The name and the state applicator license or certificate number of the individual actually making the application*;*

(h) Customer name, address, and date of application; and

(i) Total area of lawn treated.

(4) Any customer of an applicator for hire, or a neighbor whose residence is adjoining to a customer of an applicator for hire, may *request*~~[receive]~~ prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person*,* or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

~~[(5) Violations of this section shall be punishable by a civil fine of not more than one hundred dollars ($100) for each violation.]~~

SECTION 23. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Section 22 of this Act relating to notification and information requirements shall not apply to any golf course or its employees.

(2) As used in this section:

(a) "Application" means the spreading of plant-regulating materials in liquid or dry form on a golf course;

(b) "Golf course" means land on which turf and ornamental care, including application of pesticides or fertilizer and storage of pesticides or fertilizer, is done for the purpose of preparing the land for use in the game of golf;

(c) "Plant-regulating materials" means fertilizers, pesticides, or defoliants applied or intended for application to a golf course; and

(d) "Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(3) The following shall be required by a golf course relating to records, notification, and information requirements:

(a) Immediately following application of plant-regulating materials on a golf course, the applicator shall place a golf course marker on the number-one (1) and number-ten (10) tees;

(b) The golf course marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length;

(c) Lettering on the golf course marker shall be in a contrasting color and shall read on one side "PLANT-REGULATING MATERIALS HAVE BEEN APPLIED. IF DESIRED, YOU MAY CONTACT THE GOLF COURSE SUPERINTENDENT FOR FURTHER INFORMATION" in letters easily readable and not less than three-eighths (3/8) inches in height. The golf course marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator;

(d) The golf course marker may be removed by the applicator or other personnel authorized by the golf course management the day following application;

(e) Any person whose residence directly adjoins a golf course may request prior notification of a plant-regulating material application by contacting the golf course superintendent's office and providing his or her name, address, and telephone number. If requested, the golf course shall provide notification in writing, in person, or by telephone. In the event the golf course cannot provide advance notice, the person shall be contacted at the time of application. It the golf course is unable to provide prior notification or direct notification to a resident because of the absence or unavailability of the resident, the golf course shall leave a written notice at the residence; and

(f) Material safety data sheets for each plant-regulating material shall be in an area of the superintendent's office where they can be easily read and accessible by patrons of the golf course.

(4) At the time of application of plant-regulating materials to a golf course, an applicator shall record and maintain the following information for each plant-regulating material used:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate and analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the golf course, the rate of application, and the total gallons of

end use product applied to the golf course;

(f) The location of area treated;

(g) Any special instruction appearing on the label of the plant-regulating material applicable to the golf course use following application and any other precautionary or hazard information appearing on the label as applicable to the end use concentration; and

(h) The name and the state applicator license or certification number of the individual actually making the application.

(5) This record shall be maintained in the golf course superintendent's office and shall be readily available to review on request. This record shall be retained for three (3) years and be an inspectable item for the department.

The Committee on State Government reported **HB 827, HB 859, HB 950, HB 991,** with Committee Substitute attached thereto, **HB 1011,** with Committee Substitute and Committee Amendment attached thereto, **HB 1032,** with Committee Substitute attached thereto, **HJR 132, HJR 138,** and **HJR 142,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 827, AN ACT relating to members of the Commission on Human Rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.160 is amended to read as follows:

(1) The members of the Commission on Human Rights established by KRS 344.150 shall be appointed on a bipartisan basis and shall be broadly representative of employers, proprietors, trade unions, religious groups, human rights groups, and the general public.

(2) Each member is entitled to reimbursement of expenses incurred in the performance of his duties and when serving as a hearing examiner shall be compensated at a per diem rate to be established by the secretary of the Personnel Cabinet.

(3) Each member shall receive ***one hundred***[~~sixty-five~~] dollars ***($100)***[~~($65)~~] per day for attending meetings of the commission in addition to the reimbursement of expenses authorized in subsection (2) of this section.

(4) In addition to the payments authorized by subsection (3) of this section, all members may be paid one hundred dollars ($100) for each day spent in the preparation of recommended orders, presiding at administrative hearings held by the commission, or review of transcripts and other matters related to administrative hearings held by the commission.

HB 859, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as

described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to ***(27)***[~~(25)~~] of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph(e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit

as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former

public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(26) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

(27) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service on a school board, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of a month that the employee occupied the position on the school board. The employee shall pay to the retirement system the full cost of the service purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer. The payment by the member may be by lump sum or by increments and shall be paid into the individual member's contribution account in the appropriate retirement system. An employee interested in purchasing service on a school board must contract to do so with the systems prior to December 31, 2000.

HB 950, AN ACT authorizing the payment of certain claims against the state that have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies for claims that have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, the following amounts:

1.	Anne R. Miller 209 Sage Road Louisville, Kentucky 40207	$114.14
2.	Weber and Rose, PSC 2700 Aegon Center 400 West Market Street Louisville, Kentucky 40207-3364	$2,294.33
3.	James B. Hord 188 St. Matthews Avenue # 3 Louisville, Kentucky 40207	$1,007.81
4.	Valley Institute of Psychiatry P.O. Box 1637 Owensboro, Kentucky 42302	$8,918.94
5.	David P. Schoepf 880 Alexandria Pike Fort Thomas, Kentucky 41075	$2,737.50
6.	TransCor America, Inc. 1510 Fort Negley Boulevard Nashville, Tennessee 37203	$1,650.00
7.	Charter Ridge Behavioral Health System 3050 Rio Dosa Drive Lexington, Kentucky 50509	$17,730.72

8.	Spectrum Care Academy 4500 Campbellsville Road Columbia, Kentucky 42728	$27,400.81
9.	BCC Resident Account Blackburn Correctional Complex 3111 Spurr Road Lexington, Kentucky 40511	$1,748.68
10.	KPMG Peat Marwick LLP Peat Marwick Plaza 302 East Wacker Drive Chicago, Illinois 60601-9973	$9,000.00
11.	Brown, Todd and Heyburn P.O. Box 70087 Louisville, Kentucky 40270-0087	$26,188.01
12.	Henderson County Fiscal Court 20 North Main Street Henderson, Kentucky 42420	$2,500.00
13.	Mason County Detention Center 702 U.S. 68 Maysville, Kentucky 41056	$55,000.00
14.	Weber and Rose PSC 2700 Aegon Center 400 West Market Street Louisville, Kentucky 40202-3364	$3,878.59
15.	The Albertson Network P.O. Box 960645 Cincinnati, Ohio 45296	$3,344.64
16.	Rodes Professional Apparel P.O. Box 70007 Louisville, Kentucky 40270-0007	$2,503.92
17.	Wyatt, Tarrant and Combs Citizens Plaza Louisville, Kentucky 40202-2898	$11,307.54
18.	SSC Service Solutions P.O. Box 52370 Attention: Accounts Receivable Knoxville, Tennessee 37950-2370	$350.00
19.	An/Dor Reporting Service, Inc. 179 East Maxwell Street Lexington, Kentucky 40508	$240.00
20.	Benjamin Dickinson 107 Trigg Court Glasgow, Kentucky 42141	$208.00
21.	Miller, Griffin, and Marks PSC Suite 700 271 West Short Street Lexington, Kentucky 40507	$607.52
22.	Porter Paints	$1,635.10

P.O. Box 101397
Atlanta, Georgia 30392-1397

23. Brown, Todd and Heyburn $42,135.00
P.O. Box 70087
Louisville, Kentucky 40270-0087

24. William G. Holbrook, DVM $222.00
P.O. Box 66
West Liberty, Kentucky 41472

25. Preprint Publishing Company $277,590.00
9550 Regency Square Boulevard
Suite 900
Jacksonville, Florida 32225

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of the checks as required by KRS 41.370 and 413.120.

		Payee	Treasury Fee	Total Check
1.	Check #071745 dated May 8, 1961 Margaret Herrmann, Administratix Estate of Alfred William Prinz Route 4, Box 521 Cynthiana, Kentucky 41031-9340	$483.00	$25.00	$458.00
2.	Check #879532 dated April 24, 1962 Estate of James R. Hayes c/o Mrs. James R. Hayes P.O. Box 173 Gray Hawk, Kentucky 40434	$270.66	$25.00	$245.66
3.	Check #T5,379,774 dated June 9, 1976 Ricky and Rosemary Dingus 110 Pine Street Cynthiana, Kentucky 41031	$172.82	$25.00	$147.82
4.	Check #T5,949,710 dated April 22, 1977 Robert C. and Dorothiann Green 36 Bob Green Road Milton, Kentucky 40045	$120.20	$25.00	$95.20
5.	Check #A5,079,303 dated May 1, 1982 Oscar Wren 307 Wilson Avenue Auburn, Kentucky 42206	$171.00	$25.00	$146.00
6.	Check #G1,286,150 dated March 25, 1986	$38.66	$25.00	$13.66
	Check #G1,309,622 dated April 8, 1986	$38.66	$25.00	$13.66
	Check #G1,343,570 dated April 21, 1986	$38.66	$25.00	$13.66
	Check #G1,370,765 dated May 6, 1986	$38.66	$25.00	$13.66
	Check #G1,396,889 dated May 20, 1986	$38.66	$25.00	$13.66
	Check #G1,420,738 dated June 2, 1986	$38.66	$25.00	$13.66
	Check #G1,451,325 dated June 13, 1986	$38.66	$25.00	$13.66
	Check #G1,485,946 dated June 30, 1986	$38.66	$25.00	$13.66
	Check #G1,513,542 dated July 15, 1986	$38.66	$25.00	$13.66
	Check #G1,555,076 dated July 31, 1986	$38.66	$25.00	$13.66

	Estate of Jon Bud Harris (totals)	$386.60	$250.00	$136.60
	c/o Douglas Charles			
	529 Hunters Knoll			
	Lexington, Kentucky 40509			
7.	Check #T4,085,127 dated May 23, 1986	$199.00	$25.00	$174.00
	Check #T6,757,551 dated June 28, 1898	$561.00	$25.00	$536.00
	Neil Yoder (totals)	$760.00	$50.00	$710.00
	11305 Brodley Drive			
	Louisville, Kentucky 40223			
8.	Check #T4,825,225 dated May 20, 1987	$71.00	$25.00	$46.00
	Douglas Jefferson			
	5426 Pawnee Trail			
	Louisville, Kentucky 40222			
9.	Check #T5,024,640 dated July 7, 1987	$389.76	$25.00	$364.76
	Paul R. and Marjorie R. Beach			
	230 West Hickman Street			
	Winchester, Kentucky 40391			
10.	Check #P6,041,018 dated January 8, 1988	$43.51	$25.00	$18.51
	Check #P6,071,148 dated January 18, 1988	$74.41	$25.00	$49.41
	Check #P7,864,260 dated November 21, 1989	$71.36	$25.00	$46.36
	Check #G1,555,076 dated December 19, 1989	$137.53	$25.00	$112.53
	James W. Murphy (totals)	$326.81	$100.00	$226.81
	3120 Bank Street			
	Louisville, Kentucky 40212			
11.	Check #T6,577,625 dated May 17, 1989	$167.00	$25.00	$142.00
	William L. Haynes			
	385 West Seventh Street			
	Calhoun, Kentucky 42327-2047			
12.	Check #G5,401,798 dated April 24,1990	$500.00	$25.00	$475.00
	Ashland Poe			
	P.O. Box 145			
	Cumberland, Kentucky 40823			
13.	Check #A1,970,873 dated June 1, 1990	$31.00	$25.00	$6.00
	Leah Hampton for Meredith Willis			
	P.O. Box 127			
	Vanceburg, Kentucky 41179			
14.	Check #T7,481,918 dated June 7, 1990	$37.00	$25.00	$12.00
	Perry and Ella Nora North			
	14 Summer Street			
	Hazard, Kentucky 41701			
15.	Check #T7,481,918 dated June 7, 1990	$35.52	$25.00	$10.52
	Michael Fallon			

	881 Minoma Avenue Louisville, Kentucky 40217			
16.	Check #E0,288,020 dated November 14, 1990 Lucille M. Franklin 4001 Woodgate Lane Louisville, Kentucky 40220	$38.83	$25.00	$13.83
17.	Check #G8,127,835 dated April 17, 1992 T. Rothrock Miller, PSC c/o T. R. Miller 1250 Lakewood Drive Lexington, Kentucky 40502	$541.00	$25.00	$516.00
18.	Check #G8,171,722 dated April 17,1992 Richard Sanders c/o Joanna Sagester 700 Capital Avenue, Room 316B Frankfort, Kentucky 40601	$1,050.00	$25.00	$1,025.00
19.	Check # T9,433,681 dated June 12, 1992	$3550.64	$25.00	$3,525.64
	Check #T9,433,682 dated June 12, 1992	$184.32	$25.00	$159.32
	Dixie Fuel Company (totals) General Delivery Grays Knob, Kentucky 40829	$3,734.96	$50.00	$3,684.96
20.	Check #T9,574,726 dated July 2, 1992 Gray L. Bragg 6413 Faris Way Louisville, Kentucky 40272	$64.11	$25.00	$39.11
21.	Check #T9,590,230 date July 2, 1992 James H. and B. L. Ryle 1098 Cecilia Avenue Covington, Kentucky 41011	$129.00	$25.00	$104.00
22.	Check #CS116,379 dated March 2, 1993 Paul D. Durbin 505 East Park Drive Edinburgh, Indiana 48124	$45.70	$25.00	$20.70
23.	Check #E0,725,516 dated July 1, 1993 Robert A. and S. Perkins 523 West New Buckley Road Ashland, Kentucky 41102	$308.52	$25.00	$283.52
24.	Check #T9,912,433 dated March 12, 1993 Beatrice B. Robinson 2218 Stockton Road	$90.71	$25.00	$65.71

	Frankfort, Kentucky 40601				
25.	Check #C0,342,884		$442.32	$25.00	$417.32
	dated February 15,1994				
	Check #C0,351,884		$442.75	$25.00	$417.75
	dated March 15,1994				
	Check #C0,325,417		$442.75	$25.00	$417.75
	dated December 15, 1993				
	Check #C0,334,093		$442.75	$25.00	$417.75
	dated January 15,1994				
	Charlene M. Cornell	(totals)	$1,770.57	$100.00	$1,670.57
	c/o Carol Coyle				
	Adult Protective Services				
	908 East Broadway, 11-W				
	Louisville, Kentucky 40203				
26.	Check #G0,304,650		$563.64	$25.00	$538.64
	dated February 24, 1994				
	Check #G0,315,583		$1,328.64	$25.00	$1,303.64
	dated February 28, 1994				
	Allen County Sheriff Dept.	(totals)	$1,892.28	$50.00	$1,842.28
	Scottsville, Kentucky 42164				
27.	Check #G0,520,276		$2,948.00	$25.00	$2,923.00
	dated May 9, 1994				
	St. Stephen Baptist Church				
	1008 South Fifteenth Street				
	Louisville, Kentucky 40210-1321				
28.	Check #G8,127,835		$228.88	$25.00	$203.88
	dated April 9,1992				
	Titus L. White				
	1120 Liberty Road				
	Lexington, Kentucky 40505				

Section 2. The Finance and Administration Cabinet and the State Treasurer are authorized to pay the following listed claims from the following funds:

(1) The Kentucky Retirement Systems is authorized to make payment from their retirement fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of the checks, the following sums:

1.	Check #R2,437,308	$221.01	$25.00	$196.01
	dated August 4, 1987			
	Samuel J. Flowers			
	3105 Carriage Court			
	Louisville, Kentucky 40205			
2.	Check #K0,399,849	$137.12	$25.00	$112.12
	dated July 6, 1993			
	Check #K0,410,188	$137.12	$25.00	$112.12
	dated August 4, 1993			
	Check #K0,420,767	$137.12	$25.00	$112.12
	dated September 7, 1993			
	Check #K0,431,397	$137.12	$25.00	$112.12
	dated October 5, 1993			

Check #K0,442,101		$137.12	$25.00	$112.12
dated November 12, 1993				
Check #K0,452,650		$137.12	$25.00	$112.12
dated December 15, 1993				
Estate of Ruby Miller	(totals)	$822.72	$150.00	$672.72
c/o Carol Zeitler				
325 Walnut Drive				
Nashville, Tennessee 37205				

(2) The Workforce Development Cabinet is authorized to make payment from their unemployment compensation fund for State Treasury checks payable to the persons or their personal representatives but not presented for payment within a period of five (5) years from the date of issuance of the checks, the following sums:

1. Check #U4,362,558 dated June 18, 1982 $136.00
   Darrell S. Meffert
   922 Reasor Avenue
   Louisville, Kentucky 40217
2. Check #U3,254,518 dated June 16,1989 $308.00
   Patrick Jelinek
   217 Jeffrey Drive
   Radcliff, Kentucky 40160-1744

Section 3. Whereas the persons and companies named have furnished in good faith the services, supplies, and materials enumerated, and the Commonwealth has received them, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 991, AN ACT relating to authorized uses of funds in jail and prisoners' inmate funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) Funds in the inmate account of an inmate confined in a facility operated by or under contract to the Department of Corrections may be assessed and seized to pay the costs of damage which the prisoner does to himself, another inmate, a staff member, another person, or to the facility.

(2) The Department of Corrections shall promulgate administrative regulations to carry out the provisions of this section.

(3) The provisions of this section shall not limit the right of the Commonwealth of Kentucky or other proper authorities from bringing criminal charges against an inmate as a result of any act covered by this section.

(4) The provisions of this section shall not limit the right of the Commonwealth of Kentucky or any other person damaged by the inmate's action to bring a civil action against an inmate as a result of any act which is covered by this section. Damages in the civil action shall be reduced by the amount assessed and seized in accordance with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Funds in the inmate account of a prisoner confined in a county or regional jail may be assessed and seized to pay the costs of damage which the prisoner does to himself, another inmate, a staff member, another person, or to the facility.

(2) The fiscal court of the county in which the jail is located shall promulgate, by ordinance, regulations to carry out the provisions of this section.

(3) The provisions of this section shall not limit the right of the Commonwealth of Kentucky, the jail, or other proper authorities to bring criminal charges against a prisoner as a result of any act covered by this section.

(4) The provisions of this section shall not limit the right of the Commonwealth of Kentucky, the jail, or any other person damaged by the prisoner's action to bring a civil action against a prisoner as a result of any act which is covered by this section. Damages in the civil action shall be reduced by the amount assessed and seized in accordance with the provisions of this section.

The Committee Substitute No. 1 to **HB 991** is as follows:

HB 991, AN ACT relating to authorized uses of funds in jail and prisoners' inmate funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) Funds in the inmate account of an inmate confined in a facility operated by the Department of Corrections or a private facility under contract to the Department of Corrections may be assessed and seized to pay the costs of damage which the prisoner does to himself, another inmate, a staff member, another person, or to the facility.

(2) The Department of Corrections shall promulgate administrative regulations to carry out the provisions of this section.

(3) The provisions of this section shall not limit the right of the Commonwealth of Kentucky or other proper authorities from bringing criminal charges against an inmate as a result of any act covered by this section.

(4) The provisions of this section shall not limit the right of the Commonwealth of Kentucky or any other person damaged by the inmate's action to bring a civil action against an inmate as a result of any act which is covered by this section. Damages in the civil action shall be reduced by the amount assessed and seized in accordance with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Funds in the inmate account of a prisoner confined in a county or regional jail may be assessed and seized to pay the costs of damage which the prisoner does to himself, another inmate, a staff member, another person, or to the facility.

(2) The jailer shall adopt policy and procedure, approved by the fiscal court, to carry out the provisions of this section.

(3) The provisions of this section shall not limit the right of the Commonwealth of Kentucky, the jail, or other proper authorities to bring criminal charges against a prisoner as a result of any act covered by this section.

(4) The provisions of this section shall not limit the right of the fiscal court or the Commonwealth of Kentucky, the jail, or any other person damaged by the prisoner's action to bring a civil action against a prisoner as a result of any act which is covered by this section. Damages in the civil action shall be reduced by the amount assessed and seized in accordance with the provisions of this section.

HB 1011, AN ACT relating to capital projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) Institutions as defined in KRS 164A.550 shall not sell, give, lease, or in any other way transfer housing or dining system facilities, equipment, or other assets to any corporate or other entity, if those assets may be used after the sale, gift, lease, or other transfer primarily to benefit the institution or its students in any way, unless:

- *(a) 1. The institution first obtains the approval of the Council on Postsecondary Education and the secretary of the Finance and Administration Cabinet; and*
  - *2. The following procedure is followed:*
    - *a. The institution shall present its proposal to sell, give, lease, or otherwise transfer the assets to the General Assembly's Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee's regularly scheduled meeting. The proposal shall include a copy of any proposed lease or agreement, all relevant financial documents, and any other information the committee may request.*
    - *b. Within thirty (30) days of receiving the institution's proposal, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall notify the institution immediately of its decision.*
    - *c. If the Capital Projects and Bond Oversight Committee does not approve the proposal, the institution shall revise the proposal to comply with the committee's objection, subject to the approval of the secretary of the Finance and Administration Cabinet, cancel the proposal, or determine to implement the proposal over the committee's objection.*
    - *d. The decision made by the institution shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval; or*
- *(b) The General Assembly enacts legislation specifically authorizing the sale, gift, lease, or other transfer.*

(2) Any corporate or other entity that receives assets pursuant to this section shall submit an annual audited financial report to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the institution, and the president of the Council on Postsecondary Education. The audits shall be prepared in accordance with generally accepted accounting principles by certified accountants. The secretary of the Finance and Administration Cabinet shall prescribe the minimum scope of the audits.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

Any corporate or other entity that receives housing or dining system facilities from an institution under Section 1 of this Act, and proposes to undertake any capital project under KRS 45.750 that will primarily benefit the institution or its students shall be bound by the following statutes:

(1) KRS Chapter 7A, as it relates to capital planning. The entity shall submit its capital needs to the institution to be included in the institution's plan to be submitted to the Capital Planning Advisory Board.

(2) KRS 48.050 and KRS 164.020(11), as they relate to capital project requests. The entity shall submit its capital requests through the institution. However, a capital project may be authorized even though it is not specifically listed in any branch budget, statutory budget memorandum, and biennial budget report, subject to the following:

(a) Review and approval by the Council on Postsecondary Education with the request being submitted through the institution; and

(b) The capital project shall not require any General Funds and the relevant entity head as defined in KRS 45.750(1)(j) shall submit the project to the Capital Projects and Bond Oversight Committee for review as provided by KRS 45.800.

(3) The Kentucky Model Procurement Code as set forth in KRS Chapter 45A as it relates to the procurement of construction services.

(4) KRS 164A.590 as it relates to the contracting for architectural and engineering services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

Any corporate or other entity that receives housing or dining system facilities from an institution under Section 1 of this Act, and proposes to finance through bonds or notes any capital project under KRS 45.750 that will primarily benefit the institution or its students shall submit the proposed financing to the Office of Financial Management for its review. The results of that review and all costs relating to the financing shall be submitted to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue under KRS 45.816.

Section 4. KRS 45.763 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education defined as an institution in KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.

(2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars ($400,000), if:

(a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation *may*[~~will~~] become the owner of the real property or equipment at any time; and

(b) All or any portion of the purchase price of the real property or equipment is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.

(3) Capital projects approved under Section 2 of this Act shall be exempt from the requirements of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

No institution as defined in KRS 164A.550 may use, directly or indirectly, any funds appropriated by the General Assembly to that institution to cover any costs incurred by a corporate entity, who has received assets of an institution under Section 1 of this Act, for construction, maintenance, operation, administration, or debt service without a specific authorization by the General Assembly.

The Committee Substitute No. 1 to **HB 1011** is as follows:

HB 1011, AN ACT relating to capital projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 164A.575 or any other provision of law, institutions as defined in KRS 164A.550 shall not sell, give, lease, or in any other way transfer housing or dining system facilities to any corporate or other entity, if the terms of the sale, gift, lease, or other transfer provide that those assets shall be used after the sale, gift, lease, or other transfer primarily to benefit the institution or its students in any way, unless the institution requires the entity, by contract, to comply with subsection (2) of this section and Sections 2 and 3 of this Act, and:

(a) 1. The institution first obtains the approval of the Council on Postsecondary Education and the secretary of the Finance and Administration Cabinet; and

2. The following procedure is followed:

a. The institution shall present its proposal to sell, give, lease, or otherwise transfer the assets to the General Assembly's Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee's regularly scheduled meeting. The proposal shall include a copy of any proposed lease or agreement, all relevant financial documents, and any other information the committee may request.

b. Within thirty (30) days of receiving the institution's proposal, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall notify the institution immediately of its decision.

c. If the Capital Projects and Bond Oversight Committee does not approve the proposal, the institution shall revise the proposal to comply with the committee's objection, subject to the approval of the secretary of the Finance and Administration Cabinet, cancel the proposal, or determine to implement the proposal over the committee's objection.

d. The decision made by the institution shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval; or

(b) The General Assembly enacts legislation specifically authorizing the sale, gift, lease, or other transfer.

(2) Any corporate or other entity that receives assets pursuant to this section shall submit an annual audited financial report to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the institution, and the president of the Council on Postsecondary Education. The audits shall be prepared in accordance with generally accepted accounting principles by certified accountants. The secretary of the Finance and Administration Cabinet shall prescribe the minimum scope of the audits.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

Any corporate or other entity that receives housing or dining system facilities from an institution under Section 1 of this Act, and proposes to undertake any capital project under KRS 45.750 that will primarily benefit the institution or its students shall be bound by the following statutes:

(1) KRS Chapter 7A, as it relates to capital planning. The entity shall submit its capital needs to the institution to be included in the institution's plan to be submitted to the Capital Planning Advisory Board.

(2) KRS 48.050 and KRS 164.020(11), as they relate to capital project requests. The entity shall submit its capital requests through the institution. However, a capital project may be authorized even though it is not specifically listed in any branch budget, statutory budget memorandum, and biennial budget report, subject to the following:

(a) Review and approval by the Council on Postsecondary Education with the request being submitted through the institution; and

(b) The capital project shall not require any General Funds and the relevant entity head as defined in KRS 45.750(1)(j) shall submit the project to the Capital Projects and Bond Oversight Committee for review as provided by KRS 45.800.

(3) The Kentucky Model Procurement Code as set forth in KRS Chapter 45A as it relates to the procurement of construction services.

(4) KRS 164A.590 as it relates to the contracting for architectural and engineering services.

(5) KRS 337.505 to 337.500.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

Any corporate or other entity that receives housing or dining system facilities from an institution under Section 1 of this Act, and proposes to finance through bonds or notes any capital project under KRS 45.750 that will primarily benefit the institution or its students shall submit the proposed financing to the Office of Financial Management for its review. The results of that review and all costs relating to the financing shall be submitted to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue under KRS 45.816.

Section 4. KRS 45.763 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education defined as an institution in KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.

(2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars ($400,000), if:

(a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation *may*~~[will]~~ become the owner of the real property or equipment at any time; and

(b) All or any portion of the purchase price of the real property or equipment is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.

(3) Capital projects approved under Section 2 of this Act shall be exempt from the requirements of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

No institution as defined in KRS 164A.550 may use, directly or indirectly, any funds appropriated by the General Assembly to that institution to cover any costs incurred by a corporate or other entity, who has received assets of an institution under Section 1 of this Act, for construction, maintenance, operation, administration, or debt service without a specific authorization by the General Assembly.

Section 6. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, ***any corporate or other entity owning, leasing, or maintaining assets for the benefit of a public institution under Section 1 of this Act, but only in connection with the construction or renovation of those assets,*** and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As of the effective date of this Act, Sections 2 to 6 of this Act shall apply to institutions and entities with regard to housing or dining system facilities sold, given, leased, or otherwise transferred in transactions described under Section 1 of this Act entered into prior to the effective date of this Act.

Section 8. Whereas state policy guidelines are needed for postsecondary education institutions contemplating the immediate transfer of housing and dining system facilities and other assets in order to make improvements in the interest of student health and safety, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 1011** is as follows:

On page 1, by amending the title by adding, after the word "projects", the words "and declaring an emergency".

HB 1032, AN ACT relating to access to information technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

(a) The advent of the information age throughout the United States and around the world has resulted in lasting changes in information access and technology;

(b) Use of interactive video display terminals and other forms of electronic information access (audio, graphic, and text) by state and state assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but the use of assistive technology for alternative access, especially that of nonvisual access whether by speech, Braille, or other appropriate means have been overlooked in purchasing and deploying the latest information technology;

(c) Presentation of electronic data solely in a visual format or without an alternative means of access is a barrier to access by individuals who are disabled, including those who are blind or visually impaired, or who are deaf and hard of hearing, preventing them from participating on equal terms in major life activities, such as education and employment;

(d) Assistive technology including both software and hardware adaptations, has been created so that interactive control of computers and use of information presented is possible by both visual and nonvisual means; and

(e) The goals of the Commonwealth in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with special needs, including individuals unable to use visual displays, will not be excluded from the information age.

(2) All programs and activities that are supported in whole or in part by public funds shall be conducted in accordance with the following principles:

(a) Individuals with disabilities, including those who are blind or visually impaired, deaf, hard of hearing, or otherwise disabled shall have the right to full participation in life in the Commonwealth, including the use of advanced technology that is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public; and

(b) Technology purchased in whole or part with funds provided by the Commonwealth to be used to create, store, retrieve, or disseminate information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals with disabilities, including those who are blind or visually impaired, deaf or hard of hearing, or otherwise disabled.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology to be in compliance with nationally accepted accessibility and usability standards such as those established by Section 225 of the Federal Telecommunications Act of 1996 and Section 508 of the Federal Workforce Investment Act of 1998;

(2) "Individual with a disability" means an individual who is considered to have a disability for the purpose of any federal or state law, and who is or would be able by information access assistive technology to maintain a level of functioning or to achieve a greater level of functioning in any major life activity;

(3) "Blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(b) Has a medically indicated expectation of visual deterioration; or

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(4) "Covered entity" means the state or any state-assisted organization;

(5) "Deaf" or "hard of hearing" means persons who have hearing disorders and includes people who cannot hear and

understand speech clearly through the ear alone, with or without hearing aids;

(6) "Information technology" means all electronic information processing hardware and software, including but not limited to telecommunications and any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of audio, video, graphics and text;

(7) "Assistive technology" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, customized, fabricated, or is otherwise an alternative means that is used to increase, maintain, or improve functional capabilities of individuals with disabilities;

(8) "Nonvisual" means output methods not requiring sight, including but not limited to synthesized speech and Braille;

(9) "State" means the Commonwealth of Kentucky or any of its departments, agencies, public bodies, or other instrumentalities;

(10) "State-assisted organization" means a college, university, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds;

(11) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means; and

(12) "Undue burden" means unreasonable difficulty or expense associated with technical feasibility.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The head of each covered entity shall ensure that information technology equipment and software used by the entity's employees, program participants, and the general public:

(1) Provide individuals with disabilities, including blind or visually impaired, or deaf or hard of hearing, with access, including but not limited to interactive use of equipment and services, that is equivalent to the access provided individuals who are not disabled, blind or visually impaired, or deaf or hard of hearing;

(2) Are designed to present information, including but not limited to prompts used for interactive communication, in formats intended for both visual and nonvisual use; and

(3) Have been purchased under a contract that includes the technology access clause required by Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall develop a technology access clause which shall be in compliance with Section 255 of the Federal Telecommunication Act of 1996 and with Section 508 of the Federal Workforce Investment Act of 1998 and shall establish alternative, including nonvisual, access standards for use in the procurement of information technology by covered entities in accordance with the following requirements:

(1) The technology access clause shall require compliance with the nonvisible access standards established under this section. Except as otherwise provided in Section 5 of this Act, the technology access clause shall be included in all contracts entered into after the effective date of this Act for the procurement of information technology by, or for the use of, covered entities.

(2) The alternative and nonvisual access standards shall include the specifications necessary to meet the requirements of Section 3 of this Act. The standards shall include the following minimum specifications:

  (a) Effective, interactive control and use of technology, including the operating system, applications programs, and format of the data presented shall be readily achievable by alternative and nonvisual means;

  (b) The technology equipped for alternative and nonvisual access shall be compatible with information technology used by other individuals with whom the person with a disability, including the blind or visually impaired individual, must interact;

  (c) Alternative and nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and

  (d) The technology for alternative or nonvisual access shall have the capability of providing equivalent access by nonvisual of other alternative means to telecommunications or other interconnected network services used by persons who are not disabled.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of effectively phasing in nonvisual access technology procurement, the head of any covered entity may, with respect to nonvisual access software or peripheral devices and other assistive technology pertinent to individuals with disabilities access to information technology obtained during the three (3) years immediately following the effective date of this Act, approve the exclusion of the technology access clause if the cost of the software or peripheral devices or other assistive technology for the covered entity presents an undue financial or administrative burden.

(2) The head of any covered entity shall not approve the exclusion of the technology access clause from any contract with respect to:

(a) The compatibility of standard operating systems and software with nonvisual access or other assistive software, peripheral devices, or any assistive technology; or

(b) The initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(3) Nothing in this section shall require the installation of software or peripheral devices for nonvisual or alternative access if the information technology is being used by individuals who are not blind, visually impaired, or otherwise disabled. However, the applications programs and underlying operating system, including the format of the data, used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Information technology purchased prior to the effective date of this Act shall be brought into compliance with Sections 1 to 5 of this Act when the covered entity upgrades or replaces the existing equipment or software. Nothing in Sections 1 to 5 of this Act shall be construed or interpreted to require the replacement or upgrade of existing equipment or software.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any person injured by a violation of Sections 1 to 5 of this Act may bring an action for injunctive relief in the Circuit Court of the county in which the person resides or in which the covered entity is located. An action for injunctive relief shall be commenced within four (4) years after the cause of action accrues. A cause of action for a continuing violation of Sections 1 to 5 of this Act shall accrue at the time of the latest occurrence of the violation.

The Committee Substitute No. 1 to **HB 1032** is as follows:

HB 1032, AN ACT relating to access to information technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

(a) The advent of the information age throughout the United States and around the world has resulted in lasting changes in information access and technology;

(b) Use of interactive video display terminals and other forms of electronic information access (audio, graphic, and text) by state and state assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but the use of assistive technology for alternative access, especially that of nonvisual access whether by speech, Braille, or other appropriate means have been overlooked in purchasing and deploying the latest information technology;

(c) Presentation of electronic data solely in a visual format or without an alternative means of access is a barrier to access by individuals who are disabled, including those who are blind or visually impaired, or who are deaf and hard of hearing, preventing them from participating on equal terms in major life activities, such as education and employment;

(d) Assistive technology including both software and hardware adaptations, has been created so that interactive control of computers and use of information presented is possible by both visual and nonvisual means; and

(e) The goals of the Commonwealth in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with special needs, including individuals unable to use visual displays, will not be excluded from the information age.

(2) All programs and activities that are supported in whole or in part by public funds shall be conducted in accordance with the following principles:

(a) Individuals with disabilities, including those who are blind or visually impaired, deaf, hard of hearing, or otherwise disabled shall have the right to full participation in life in the Commonwealth, including the use of advanced technology that is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public; and

(b) Technology purchased in whole or part with funds provided by the Commonwealth to be used to create, store, retrieve, or disseminate information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals with disabilities, including those who are blind or visually impaired, deaf or hard of hearing, or otherwise disabled.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology to be in compliance with nationally accepted accessibility and usability standards such as those established

by Section 255 of the Federal Telecommunications Act of 1996 and Section 508 of the Federal Workforce Investment Act of 1998;

(2) "Individual with a disability" means an individual who is considered to have a disability for the purpose of any federal or state law, and who is or would be able by information access assistive technology to maintain a level of functioning or to achieve a greater level of functioning in any major life activity;

(3) "Blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(b) Has a medically indicated expectation of visual deterioration; or

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(4) "Covered entity" means the state or any state-assisted organization;

(5) "Deaf" or "hard of hearing" means persons who have hearing disorders and includes people who cannot hear and understand speech clearly through the ear alone, with or without hearing aids;

(6) "Information technology" means all electronic information processing hardware and software, including but not limited to telecommunications and any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of audio, video, graphics and text;

(7) "Assistive technology" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, customized, fabricated, or is otherwise an alternative means that is used to increase, maintain, or improve functional capabilities of individuals with disabilities;

(8) "Nonvisual" means output methods not requiring sight, including but not limited to synthesized speech and Braille;

(9) "State" means the Commonwealth of Kentucky or any of its departments, agencies, public bodies, or other instrumentalities;

(10) "State-assisted organization" means a college, university, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds;

(11) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means; and

(12) "Undue burden" means significant difficulty or expense including, but not limited to, a difficulty or expense associated with technical feasibility.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The head of each covered entity shall ensure that information technology equipment and software used by the entity's employees, program participants, and the general public:

(1) Provide individuals with disabilities, including blind or visually impaired, or deaf or hard of hearing, with access, including but not limited to interactive use of equipment and services, that is equivalent to the access provided individuals who are not disabled, blind or visually impaired, or deaf or hard of hearing;

(2) Are designed to present information, including but not limited to prompts used for interactive communication, in formats intended for both visual and nonvisual use; and

(3) Have been purchased under a contract that includes the technology access clause required by Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall develop a technology access clause which shall be in compliance with Section 255 of the Federal Telecommunication Act of 1996 and with Section 508 of the Federal Workforce Investment Act of 1998 and shall establish alternative, including nonvisual, access standards for use in the procurement of information technology by covered entities in accordance with the following requirements:

(1) The technology access clause shall require compliance with the standards established under this section. Except as otherwise provided in Section 5 of this Act, the technology access clause shall be included in all contracts entered into after the effective date of this Act for the procurement of information technology by, or for the use of, covered entities.

(2) The alternative and nonvisual access standards shall include the specifications necessary to meet the requirements of Section 3 of this Act. The standards shall include the following minimum specifications:

(a) Effective, interactive control and use of technology, including the operating system, applications programs, and format of the data presented shall be readily achievable by alternative and nonvisual means;

(b) The technology equipped for alternative and nonvisual access shall be compatible with information technology used by other individuals with whom the person with a disability, including the blind or visually impaired individual, must interact;

(c) Alternative and nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and

(d) The technology for alternative or nonvisual access shall have the capability of providing equivalent access by nonvisual of other alternative means to telecommunications or other interconnected network services used by persons who are not disabled.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of procurement, the head of any covered entity may, with respect to access software or peripheral devices and other assistive technology pertinent to individuals with disabilities access to information technology obtained following the effective date of this Act, approve the exclusion of the technology access clause if the cost of the software or peripheral devices or other assistive technology for the covered entity presents an undue burden.

(2) The head of any covered entity shall not approve the exclusion of the technology access clause from any contract with respect to:

(a) The compatibility of standard operating systems and software with nonvisual access or other assistive software, peripheral devices, or any assistive technology; or

(b) The initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(3) Nothing in this section shall require the installation of software or peripheral devices for nonvisual or alternative access if the information technology is being used by individuals who are not blind, visually impaired, or otherwise disabled. However, the applications programs and underlying operating system, including the format of the data, used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Information technology purchased prior to the effective date of this Act shall be brought into compliance with Sections 1 to 5 of this Act when the covered entity upgrades or replaces the existing equipment or software. Nothing in Sections 1 to 5 of this Act shall be construed or interpreted to require the replacement or upgrade of existing equipment or software.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any person injured by a violation of Sections 1 to 5 of this Act may bring an action for injunctive relief in the Circuit Court of the county in which the person resides or in which the covered entity is located. An action for injunctive relief shall be commenced within four (4) years after the cause of action accrues. A cause of action for a continuing violation of Sections 1 to 5 of this Act shall accrue at the time of the latest occurrence of the violation.

HJR 132, A JOINT RESOLUTION relating to the celebration of the bicentennial of Abraham Lincoln's birth providing for the creation of an Abraham Lincoln Bicentennial Task Force and making an appropriation therefor.

WHEREAS, Abraham Lincoln, the sixteenth President of the United States, was one of this nation's most outstanding leaders and a native son of this Commonwealth; and

WHEREAS, Abraham Lincoln was born near Hodgenville, Kentucky on February 12, 1809, to Thomas and Nancy Hanks Lincoln and rose from humble circumstances to pilot this nation through the Civil War, one of the greatest crises of its history; and

WHEREAS, President Lincoln, author of the Emancipation Proclamation, was instrumental in ending slavery in these United States; and

WHEREAS, in 2009, this nation will celebrate the bicentennial of Abraham Lincoln's birth; and

WHEREAS, the United State Congress has passed legislation to create the Abraham Lincoln Bicentennial Commission to study and recommend suitable federal activities to honor Abraham Lincoln during his bicentennial year; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to plan and carry out its own bicentennial tributes to Abraham Lincoln and to coordinate those activities with those of the federal government;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is created the Abraham Lincoln Bicentennial Task Force, which shall be attached to the Education, Arts, and Humanities Cabinet, which shall provide administrative and staff services to the Task Force. The Task Force shall include nine (9) members, as follows:

(1) The Director of the Kentucky Historical Society, or his designee, who shall chair the Task Force;

(2) Four members of the General Assembly, including one (1) member of the House of Representatives appointed by the Speaker of the House, one (1) member of the House of Representatives appointed by the House Minority Floor Leader, one (1) member of the Senate appointed by the President of the Senate, and one (1) member of the Senate appointed by the Senate

Minority Floor Leader; and

(3) Four (4) citizen members, two (2) from each of the two (2) major political parties, including one (1) citizen from the Hodgenville area and three (3) citizens from the state at large, with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

Section 2. The Abraham Lincoln Bicentennial Task Force shall:

(1) Study activities that may be carried out by the Commonwealth of Kentucky to honor Abraham Lincoln on the occasion of the bicentennial anniversary of his birth;

(2) Cooperate and coordinate with the federal Abraham Lincoln Bicentennial Commission and with any local government efforts in Larue and Hardin Counties in planning activities to honor President Lincoln's bicentennial;

(3) Report its progress, activities, and recommendations to each regular session of the General Assembly, and deliver its final report to the 2008 Regular Session;

(4) Cease to exist upon sine die adjournment of the 2008 Regular Session of the General Assembly.

Section 3. Members of the Task force shall receive actual and necessary expenses incurred in attending meetings of the Task Force. In addition, legislator members shall receive the same per diem compensation they receive for attending meetings of interim joint committees of the Legislative Research Commission.

Section 4. There is appropriated from the General Fund in the State Treasury to the Office of Secretary of the Education, Arts, and Humanities Cabinet the sum of $10,000 for each of Fiscal Years 2000-2001 and 2001-2002 for purposes of carrying out this Resolution.

HJR 138, A JOINT RESOLUTION authorizing and directing the Kentucky Department of Fish and Wildlife Resources, in cooperation with the Kentucky Aquaculture Task Force and Kentucky State University, to conduct and facilitate a series of statewide public meetings relating to the public support and feasibility of reservoir ranching of paddlefish in public waters managed by the Kentucky Department of Fish and Wildlife Resources, and making an appropriation therefor.

WHEREAS, paddlefish is the Polydon spathula, a fish native to Kentucky and able to filter zooplankton from the water; and

WHEREAS, reservoir ranching is an aquacultural production system in which young paddlefish are stocked at a low rate into a reservoir, permitted to forage on natural foods, and harvested after two or more years; and

WHEREAS, reservoir ranching of paddlefish in Kentucky has been investigated, has not shown any negative biological impacts, and has been determined to be a possible new aquaculture enterprise in Kentucky; and

WHEREAS, the level of public support for the use of public waters for reservoir ranching is not known at this time and should be considered in any decision to allow reservoir ranching; and

WHEREAS, the General Assembly needs information on the feasibility and public support of reservoir ranching of paddlefish in public waters to objectively and responsibly determine whether reservoir ranching of paddlefish is in the best interest of the Commonwealth; and

WHEREAS, Kentucky State University and the Kentucky Aquaculture Task Force are directed to assist in the promotion and study of the aquaculture industry in Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Fish and Wildlife Resources, with the cooperation of the Kentucky Aquaculture Task Force and Kentucky State University, shall conduct and facilitate a series of statewide public information meetings and conduct a survey of a cross section of Kentucky citizens regarding reservoir ranching of paddlefish in Kentucky. The hearings and survey shall be completed no later than November 1, 2000.

Section 2. If the Kentucky Department of Fish and Wildlife Resources determines that reservoir ranching of paddlefish is a suitable enterprise in Kentucky, it shall promulgate administrative regulations for reservoir ranching of paddlefish in designated public waters managed by the department.

Section 3. There is hereby appropriated from the general fund for fiscal year 2000-2001 the sum of $10,000 to accomplish the meetings and survey. Any amount remaining following the completion of the meetings and survey shall revert to the general fund. The meetings and survey shall begin not later than August 1, 2000, and a report summarizing the meetings and survey shall be submitted to the Legislative Research Commission no later than the Commission's regularly scheduled November, 2000 meeting.

HJR 142, A JOINT RESOLUTION directing the Cabinet for Economic Development, the Transportation Cabinet, and Department of Education to coordinate their efforts and address the obstacles limiting the effectiveness of economic development efforts in counties with high unemployment, low educational attainment levels, and low per capita income.

WHEREAS, the Cabinet for Economic Development is the primary state agency responsible for creating new jobs and new investment in the Commonwealth; and

WHEREAS, the Cabinet for Economic Development is limited in creating new jobs through economic development by a lack of infrastructure; and

WHEREAS, the Cabinet for Economic Development is limited in creating new jobs through economic development by the educational attainment levels found in many counties in the Commonwealth; and

WHEREAS, despite the economic growth and low unemployment being experienced across the nation and in parts of this Commonwealth, there are still many counties and citizens in need; and

WHEREAS, many counties across the Commonwealth continue to have unemployment rates two and three times the state's average unemployment rate;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. In order to advance economic development, education, and transportation, the Cabinet for Economic Development, the Department of Education, and the Transportation Cabinet shall work together to create a unified plan for increasing levels of assistance to those counties with high unemployment, low educational attainment levels, and low per capita income.

The Committee Substitute No. 1 to **HJR 142** is as follows:

HJR 142, A JOINT RESOLUTION directing the Cabinet for Economic Development, the Transportation Cabinet, and Department of Education to coordinate their efforts and address the obstacles limiting the effectiveness of economic development efforts in counties with high unemployment, low educational attainment levels, and low per capita income.

WHEREAS, the Cabinet for Economic Development is the primary state agency responsible for creating new jobs and new investment in the Commonwealth; and

WHEREAS, the Cabinet for Economic Development is limited in creating new jobs through economic development by a lack of infrastructure; and

WHEREAS, the Cabinet for Economic Development is limited in creating new jobs through economic development by the educational attainment levels found in many counties in the Commonwealth; and

WHEREAS, despite the economic growth and low unemployment being experienced across the nation and in parts of this Commonwealth, there are still many counties and citizens in need; and

WHEREAS, many counties across the Commonwealth continue to have unemployment rates two and three times the state's average unemployment rate;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. In order to advance economic development, education, and transportation, the Cabinet for Economic Development, the Department of Education, and the Transportation Cabinet shall work together to create a unified plan for increasing levels of assistance to those counties, or districts of two or more counties as determined by the Economic Development Cabinet, with high unemployment, low educational attainment levels, and low per capita income.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **SB 52, SB 198, SB 218, SB 223, SB 224, SB 257, SCR 4, SB 116, SB 189, SB 167**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 566, HB 667, HJR 90, HB 900, HB 285, HB 830, HB 855, HB 877, HB 902, HB 903, HB 938, HB 1000, HJR 121, HJR 141, HCR 147, HB 57, HB 221, HB 321, HB 322, HB 392, HB 439, HCR 139,** and **HR 150** have been posted for passage in the Orders of the Day for March 14, 2000.

Orders of the Day

HB 650 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 650** be passed.

On the roll call the vote was: **Yeas 84, Nays 0**. (See March 13 , 2000 roll call on **HB 650** - Appendix.)

HB 650 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 650** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 763, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 763**. Agreed.

Representative Alexander moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 763**. Agreed.

Representative A. Arnold moved that **HB 763**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 14**. (See March 13, 2000 roll call on **HB 763** - Appendix.)

HB 763, by way of Committee Substitute, was passed.

Representative A. Arnold moved the adoption of Floor Amendment No. 3 Title to the Committee Substitute to **HB 763**. Agreed; and the title was agreed to.

Representative A. Arnold moved that the vote by which **HB 763**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 843, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 843**. Agreed.

Representative Marzian moved that **HB 843**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See March 13, 2000 roll call on **HB 843** - Appendix.)

HB 843, by way of Committee Substitute, was passed.

Representative Marzian moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 843**. Agreed; and the title was agreed to.

Representative Marzian moved that the vote by which **HB 843**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 887 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **HB 887** be passed.

On the roll call the vote was: **Yeas 89, Nays 3**. (See March 13 , 2000 roll call on **HB 887** - Appendix.)

HB 887 was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 887** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 901, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 901**. Agreed.

Representative Geveden moved that **HB 901**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89**, **Nays 0**. (See March 13, 2000 roll call on **HB 901** - Appendix.)

HB 901, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 901**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 856, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved the adoption of Committee Amendment No. 1 to **HB 856**. Agreed.

Representative J. Arnold moved that **HB 856**, as amended, be passed.

On the roll call the vote was: **Yeas 90**, **Nays 1**. (See March 13, 2000 roll call on **HB 856** - Appendix.)

HB 856, as amended, was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 856**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 771 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 771** be passed.

On the roll call the vote was: **Yeas 91**, **Nays 0**. (See March 13 , 2000 roll call on **HB 771** - Appendix.)

HB 771 was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 771** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 896, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Committee Amendment No. 1 to **HB 896**. Agreed.

Representative Thomas moved that **HB 896**, as amended, be passed.

On the roll call the vote was: **Yeas 90**, **Nays 1**. (See March 13, 2000 roll call on **HB 896** - Appendix.)

HB 896, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 896**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 768 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 768** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 13 , 2000 roll call on **HB 768** - Appendix.)

HB 768 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 768** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 870, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of Floor Amendment No. 1 to **HB 870**. Agreed.

Representative Webb moved that **HB 870**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 13, 2000 roll call on **HB 870** - Appendix.)

HB 870, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 870**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 914, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **HB 914**. Agreed.

Representative Ballard moved that **HB 914**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 13, 2000 roll call on **HB 914** - Appendix.)

HB 914, by way of Committee Substitute, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 914**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 946, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HB 946**. Agreed.

Representative Palumbo moved that **HB 946**, as amended, be passed.

On the roll call the vote was: **Yeas 79, Nays 10**. (See March 13, 2000 roll call on **HB 946** - Appendix.)

HB 946, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 946**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 992, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Floor Amendment No. 21 to **HB 992**. Agreed.

On the roll call the vote was: **Yeas 64, Nays 28**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 21 to **HB 992**-Appendix.)

Floor Amendment No. 21 to **HB 992** was adopted.

Representative Gray moved the adoption of Floor Amendment No. 20 to **HB 992**. Agreed.

On the roll call the vote was: **Yeas 51, Nays 39**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 20 to **HB 992**-Appendix.)

Floor Amendment No. 20 to **HB 992** was adopted.

Representative Stumbo moved that **HB 992**, as amended, be passed.

The Speaker Pro Tem assumed the Chair.

The Speaker resumed the Chair.

Representative J. Turner moved the adoption of Floor Amendment No. 27 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 26 to **HB 992**.

On the roll call the vote was: **Yeas 26, Nays 57**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 26 to **HB 992**-Appendix.)

Floor Amendment No. 26 to **HB 992** was defeated.

Representative Ratliff moved the adoption of Floor Amendment No. 24 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 29 to **HB 992**.

On the roll call the vote was: **Yeas 19, Nays 57**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 29 to **HB 992**-Appendix.)

Floor Amendment No. 29 to **HB 992** was defeated.

Representative Ratliff moved the adoption of Floor Amendment No. 44 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 31 to **HB 992**.

On the roll call the vote was: **Yeas 29, Nays 48**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 31 to **HB 992**-Appendix.)

Floor Amendment No. 31 to **HB 992** was defeated.

Representative Cave moved the adoption of Floor Amendment No. 6 to **HB 992**.

On the roll call the vote was: **Yeas 36, Nays 44**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 6 to **HB 992**-Appendix.)

Floor Amendment No. 6 to **HB 992** was defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 25 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 30 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 39 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 28 to **HB 992**. Defeated.

Representative J. Turner moved the adoption of Floor Amendment No. 34 to **HB 992**.

On the roll call the vote was: **Yeas 32, Nays 55**. (See March 13, 2000 roll call on the adoption of Floor Amendment No. 34 to **HB 992**-Appendix.)

Floor Amendment No. 34 to **HB 992** was defeated.

Representative J. Turner moved that **HB 992**, as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 27**. (See March 13, 2000 roll call on **HB 992** - Appendix.)

HB 992, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 992**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 822 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 822** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 13 , 2000 roll call on **HB 822** - Appendix.)

HB 822 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 822** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 248, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 248**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 248**. Agreed.

Representative Heleringer moved that **HB 248**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 13, 2000 roll call on **HB 248** - Appendix.)

HB 248, by way of Committee Substitute, was passed.

Representative Heleringer moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **HB 248**. Agreed; and the title was agreed to.

Representative Heleringer moved that the vote by which **HB 248**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 857 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 857** be passed.

On the roll call the vote was: **Yeas 74, Nays 12**. (See March 13 , 2000 roll call on **HB 857** - Appendix.)

HB 857 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 857** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 866 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 866** be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 13 , 2000 roll call on **HB 866** - Appendix.)

HB 866 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 866** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 881, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. D. Butler moved the adoption of the Committee Substitute to **HB 881**. Agreed.

Representative D. D. Butler moved that **HB 881**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 13, 2000 roll call on **HB 881** - Appendix.)

HB 881, by way of Committee Substitute, was passed and the title agreed to.

Representative D. D. Butler moved that the vote by which **HB 881**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 912, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 912** be placed back in the Orders of the Day and retain its position. Agreed.

HJR 128 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HJR 128** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 13, 2000 roll call on **HJR 128** - Appendix.)

HJR 128 was adopted.

Representative Yonts moved that the vote by which **HJR 128** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 944 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved that **HB 944** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 13 , 2000 roll call on **HB 944** - Appendix.)

HB 944 was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 944** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 389**. Agreed.

Representative A. Arnold moved that **HB 389**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See March 13, 2000 roll call on **HB 389** - Appendix.)

HB 389, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 389**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 324, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of the Committee Substitute to **HB 324**. Agreed.

Representative Colter moved that **HB 324**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 2**. (See March 13, 2000 roll call on **HB 324** - Appendix.)

HB 324, by way of Committee Substitute, was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 324**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 258** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 13 , 2000 roll call on **HB 258** - Appendix.)

HB 258 was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 258** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker Pro Tem assumed the Chair.

HB 572, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Floor Amendment No. 1 to **HB 572**. Agreed.

Representative Richards moved that **HB 572**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 13, 2000 roll call on **HB 572** - Appendix.)

HB 572, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 572**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 571 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 571** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 13 , 2000 roll call on **HB 571** - Appendix.)

HB 571 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 571** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 177**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 177**. Agreed.

Representative Nunn moved that **HB 177**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 13, 2000 roll call on **HB 177** - Appendix.)

HB 177, by way of Committee Substitute, was passed.

Representative Nunn moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **HB 177**. Agreed; and the title was agreed to.

Representative Nunn moved that the vote by which **HB 177**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 25** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 13 , 2000 roll call on **HB 25** - Appendix.)

HB 25 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 25** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 886 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved that **HB 886** be passed.

On the roll call the vote was: **Yeas 88, Nays 6**. (See March 13 , 2000 roll call on **HB 886** - Appendix.)

HB 886 was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 886** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 512 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 512** be passed.

On the roll call the vote was: **Yeas 86, Nays 2**. (See March 13 , 2000 roll call on **HB 512** - Appendix.)

HB 512 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 512** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting be waived on **HB 704, HB 792, HB 563, HB 1011, HB 1024,** and **HB 844**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **HB 859, HB 144, HB 1032, HB 316, HB 430, HB 563, HB 612, SB 300,** and **HB 792**.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 14, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Natural Resources and Environment: **SJR 68**

Judiciary: **SB 137, SB 298**

Education: **SB 259, SB 287, SB 280**

Report of Committees (Continued)

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 939,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 939, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that:

  (a) The intent of disclosure of campaign finance information is to make that information about the role of money in politics accessible to the public;

  (b) The volume of campaign finance reports submitted each year to the state renders it virtually impossible, without the help of computer technology, to derive meaningful conclusions from the records;

  (c) Computer automation is a necessary and effective means of transmitting, organizing, storing, and retrieving vast amounts of data submitted by candidates in election campaigns;

  (d) Many candidates already rely upon computer technology for accounting and fundraising purposes and requiring that these candidates and committees submit their campaign finance data electronically would pose no undue hardship to them; and

  (e) Although candidates are currently permitted to file campaign finance reports electronically if they so choose, very few candidates have chosen to do so, and therefore access to campaign finance data through electronic or on-line technology is limited.

(2) The General Assembly enacts this legislation to accomplish the following:

  (a) To improve the existing system of electronic reporting and extend its usage to more candidates;

  (b) To allow concerned persons easy, convenient, and timely access to campaign finance reports submitted to the state;

  (c) To ease the burden on candidates and committees of tabulating, filing, and maintaining public records of financial activity;

  (d) To strengthen both the disclosure and enforcement capabilities of the Registry of Election Finance;

  (e) To cooperate in the standardization of reporting formats among states so that interstate as well as intrastate sources of political money can be known;

  (f) To provide for a fully informed electorate; and

  (g) To help restore public trust in the governmental and electoral institutions of this state.

Section 2. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

  (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

  (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

  (c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

  (d) An executive committee of a political party; and

  (e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

(c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;~~[and]~~

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;

(13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(16) "Filer" means any candidate, committee, or other individual or entity required to submit financial disclosure reports to the registry; and

(17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry.

Section 3. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, parties, and exploratory committees as defined in KRS 121A.010(9)(e) containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, or to an exploratory committee, the date, name, address, occupation, and

employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

(6) The registry shall:

(a) Develop or acquire a system for electronic reporting for use by individuals and entities required to file campaign finance reports with the registry under this chapter or KRS Chapter 121A. The registry shall promulgate administrative regulations under KRS Chapter 13A which provide for a nonproprietary standardized format or formats, using industry standards, for the transmission of data required under this chapter or KRS Chapter 121A;

(b) Accept test files from software vendors and persons wishing to file reports electronically for the purpose of determining whether the file format complies with the nonproprietary standardized format developed under paragraph (a) of this subsection and is compatible with the registry's system for receiving the data;

(c) Make all paper or electronic reports filed with the registry pertaining to candidates for the General Assembly and statewide office available on the Internet free of charge, in an easily understood format that allows the public to browse, search, and download the data contained in the reports by each of the reporting categories required by this chapter or KRS Chapter 121A, including, but not limited to:

1. The name of each candidate or committee;

2. The office sought by each candidate;

3. The name of each contributor;

4. The address of each contributor;

5. The employer or business occupation of each contributor, or if the contributor is a permanent committee, a description of the major business, social, or political interest represented by the permanent committee;

6. The date of each contribution; and

7. The amount of each contribution.

(d) Make all data specified in paragraph (c) of this subsection available on the Internet no later than ten (10) business days after its receipt by the registry. If a contribution or expenditure report is filed late with the registry, that data shall be made available on the Internet within twenty-four (24) hours of the registry's receipt of the data;

(e) Make filer-side software available free of charge to all individuals or entities subject to the reporting requirements of this chapter or KRS Chapter 121A;

(f) Establish a training program on the electronic reporting program and make it available free of charge to all individuals and entities subject to the reporting requirements of this chapter or KRS Chapter 121A; and

(g) Maintain all campaign finance data pertaining to legislative and statewide candidates on-line for twenty (20) years after the date the report containing the data is filed, and then archive the data in a secure format.

(7) In conjunction with the program of electronic reporting set out in subsection (6) of this section, the registry may:

(a) Develop or acquire a computer system that provides for on-line Internet submission of the reports required by this chapter or KRS Chapter 121A utilizing security procedures to ensure the integrity of the data transmitted; and

(b) Provide procedures for verifying electronic signatures placed upon reports under this chapter or KRS Chapter 121A.

Section 4. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided ***or using a format approved*** by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or

contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS

121.180.

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(22) No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26) (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27) No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 5. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from

reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report[~~, upon a prescribed form,~~] to the registry, ***on a form provided or using a format approved by the registry,*** of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
4. The total amount of cash contributions received during the reporting period; and
5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
4. All reports to the registry shall be ***received by***[~~ in the hands of~~] the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for

inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report[~~, upon a prescribed form,~~] to the registry***, on a form provided or using a format approved by the registry,*** of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures ***on a form provided or using a format approved***[~~ made on forms prescribed~~] by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be ***received by***[~~in the hands of~~] the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate ***paper*** copy of each report filed ***either on paper or electronically*** with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions

solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.

(b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.

(c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(e) Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

(12) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.

(b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.

(c) Beginning on January 1, 2002, electronic reporting is required for all of the following:

1. Candidates for statewide office and slates of candidates that during the election cycle receive contributions or loans in the aggregate of twenty-five thousand dollars ($25,000) or more, or at any time have a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars ($25,000) or more;

2. Candidates for the General Assembly that during the election cycle receive contributions or loans in the aggregate of twelve thousand five hundred dollars ($12,500), or at any time have a balance in an aggregate of twelve thousand five hundred dollars ($12,500) or more; and

3. Campaign committees, political issues committees, permanent committees, registered fundraisers, contributing organizations, and individuals and entities making independent expenditures that during the election cycle receive contributions or loans in an aggregate of twenty-five thousand dollars ($25,000) or more, make expenditures in an aggregate of twenty-five thousand dollars ($25,000) or more, or at any time have a balance in an aggregate of twenty-five thousand dollars ($25,000) or more.

(13) Notwithstanding the provisions of this section, upon the filing of a sworn statement by a filer which states that the filer does not have access to the technology needed to comply with the electronic filing requirements of this section and that filing the statement without that technology would constitute a substantial hardship for the filer, the registry may issue a one-time exemption from the electronic filing requirement of this section.

(14) Filers specified in subsection (12) of this section shall also continue to file required campaign finance reports in paper format until the registry deems it is no longer necessary. The paper copy shall continue to be the official version for audit and other legal purposes.

(15) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so

voluntarily.

(16) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.

(17) All electronic or on-line filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.

(18) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.

The Committee Amendment No. 1 to **HB 939** is as follows:

On page 11, at line 4, after the number "***(6)***", by inserting "***If appropriate funding is available,***".

The Committee on State Government reported **HCR 116,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 116, A CONCURRENT RESOLUTION calling for increased efforts to combat illegal immigration.

WHEREAS, the number of illegal aliens in the Commonwealth of Kentucky is growing at an alarming rate; and

WHEREAS, the local governments in the Commonwealth with already limited resources, are faced with the problems associated with the increase in the number of illegal aliens; and

WHEREAS, the population of illegal aliens in the county jails and the number of illegal aliens seen by county health departments is growing; and

WHEREAS, financial concerns and language barriers associated with the influx of illegal aliens are among the problems that local governments are dealing with; and

WHEREAS, the volunteer agencies across the Commonwealth are struggling to meet the needs of the growing number of homeless and indigent aliens in this Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. To call upon the Kentucky Congressional delegation to use all of its resources to influence the Immigration and Naturalization Service to police and enforce the immigration laws to their fullest extent in the Commonwealth of Kentucky. Further, to urge the Kentucky General Assembly to study the impact that illegal aliens are having upon the local governments of the Commonwealth.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this resolution to Richard Tanner, 400 King's Daughters Drive, Frankfort, Kentucky 40601-4106.

The Committee Amendment No. 1 to **HCR 116** is as follows:

On the second line of the resolving clause, by changing "House of Representatives" to "Senate".

The Committee on Local Government reported **HB 744,** with Committee Substitute and Committee Amendment attached thereto, and **HB 844,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 744, AN ACT relating to the Kentucky Law Enforcement Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, combination of cities and counties, state or public university,[~~or~~] county sheriff's office of the Commonwealth***, or the Department of Kentucky State Police***.

(2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county***,*** or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030,[~~or~~] a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, ***or a Kentucky State Police officer,*** but does not include[~~Kentucky State Police,~~] any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed

under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer at least the minimum federal wage;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998***, and that all Kentucky State Police Officers appointed before the effective date of this Act*** shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers***, except for Kentucky State Police Officers,*** employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis***. A Kentucky State Police Officer appointed before the effective date of this Act shall be deemed to have met the requirements of this subsection. A Kentucky State Police Officer appointed on or after the effective date of this Act shall be deemed to have met the requirements of this subsection if he or she is not designated under the provisions of KRS 15.386 as having an inactive, revoked, or denied certification status***;

(5) Requires all police officers, ***except for Kentucky State Police Officers,*** whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council***. A Kentucky State Police Officer, whether appointed before, on, or after the effective date of this Act, shall be deemed to have met the requirements of this subsection if he or she is not designated under the provisions of KRS 15.386 as having an inactive, revoked, or denied certification status***;

(6) Requires compliance with all provisions of law applicable to local police, state or public university police,[~~ or~~] sheriffs and their deputies, ***or Kentucky State Police Officers,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department,[~~ or~~] sheriff's office, ***or the Department of Kentucky State Police*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department,[~~ or~~] sheriff's office***, or the Department of Kentucky State Police*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, [~~or~~]sheriff's office***, or the Department of Kentucky State Police*** has substantially complied with subsections (6) and (7) of this section.

The Committee Substitute No. 1 to **HB 744** is as follows:

HB 744, AN ACT relating to the Kentucky Law Enforcement Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, combination of cities and counties, state or public university,[~~ or~~] county sheriff's office of the Commonwealth***, or the Department of Kentucky State Police***.

(2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county, or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030,[~~ or~~] a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, ***or a Kentucky State Police officer,*** but does not include[~~ Kentucky State Police,~~] any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer at least the minimum federal wage;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998***, and that all Kentucky State Police officers appointed before the effective date of this Act*** shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers, employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis***. A Kentucky State Police officer shall be deemed to have met the requirements of this subsection if he or she is not designated under the provisions of KRS 15.386 as having an inactive, revoked, or denied certification status***;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council***. A Kentucky State Police officer, whether appointed before, on, or after the effective date of this Act, shall be deemed to have met the requirements of this subsection if he or she is not designated under the provisions of KRS 15.386 as having an inactive, revoked, or denied certification status***;

(6) Requires compliance with all provisions of law applicable to local police, state or public university police,[~~ or~~] sheriffs and their deputies, ***or Kentucky State Police officers,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department,[~~ or~~] sheriff's office, ***or the Department of Kentucky State Police*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department,[~~or~~] sheriff's office***, or the Department of Kentucky State Police*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, [~~or~~]sheriff's office***, or the Department of Kentucky State Police*** has substantially complied with subsections (6) and (7) of this section.

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning July 15, 1998, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified police officer it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category***, except that qualified Kentucky State Police officers shall receive an annual supplement not to exceed the amount specified in this subsection for other police officers, plus an amount equal to the required employer's contribution to the State Police Retirement System under KRS 16.510 to 16.652 in the manner specified in Section 5 of this Act***. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.

Section 4. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund. ***The cabinet shall not consider the Kentucky State Police participation as a factor in determining the proportionate share of total insurance premium surcharge proceeds for each fund.***

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse, except that

moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in excess of three million dollars ($3,000,000), beginning with fiscal year 1994-95, through June 30, 1999, shall lapse. On and after July 1, 1999, moneys in these accounts shall not lapse***, but beginning with fiscal year 2000, moneys in excess of three million dollars ($3,000,000) shall be distributed to the Kentucky State Police officers pursuant to the provisions of Section 5 of this Act***.

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

(5) The administrator of the Kentucky Law Enforcement Foundation Program fund in its calculation of its cost projections under KRS 15.455 shall not consider the participation of eligible Kentucky State Police in that calculation. Any payments made to the Kentucky State Police shall be done in accordance with the provisions of Sections 1 to 5 of this Act.

Section 5. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse***, but beginning with fiscal year 2000, moneys in excess of three million dollars ($3,000,000) shall be distributed to the Kentucky State Police officers meeting the requirements of Sections 1 and 2 of this Act in the manner set out in Section 3 of this Act. In no instance shall any salary supplement to police officers be reduced to provide a salary supplement to the Kentucky State Police officers participating in the fund***.

Section 6. Whereas the fiscal year of the Commonwealth begins on July 1, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 744** is as follows:

Amend the title to read as follows: "AN ACT relating to the Kentucky Law Enforcement Foundation Program and declaring an emergency."

HB 844, AN ACT relating to the local government parks and recreation facilities fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.028 is amended to read as follows:

(1) In enacting a parks establishment aid law, it is the intention of the General Assembly to supplement local efforts to establish park and recreational facilities. The inadequacy of present facilities and the high cost of acquisition and establishment of park recreational facilities are hereby declared to be matters of public interest and concern and vital to the promotion of the health, welfare and industrial development of the inhabitants of the Commonwealth.

(2) The commissioner of the Department for Local Government shall cause to be established in the Treasury a special fund to be known as the local government parks and recreational facilities fund, to be administered by the commissioner. The fund shall be comprised of grants, contributions, appropriations and intergovernmental transfers. Moneys in the fund shall not lapse at the end of the fiscal year.

(3) The commissioner may, when he determines that a proposed local government plan for a park or other recreational facility would serve the public interest, use moneys from the local government parks and recreational facilities fund to aid local governmental units in their acquisition and establishment of local parks and recreational facilities, provided that local governmental units must provide matching funds for the project. The Department for Local Government may grant an amount up to ***seven hundred fifty thousand dollars ($750,000)***~~[five hundred thousand dollars ($500,000)]~~ for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project. For the purposes of this section, local governmental units shall mean county governments, urban-county government, and governments of cities of any class. Title to parks and recreational facilities acquired by the use of funds authorized by this section shall vest in the local governmental unit which proposed the project and provided the matching funds.

(4) In September of each year the commissioner shall determine the amount of funds available for distribution by December 31 of that same year. The commissioner may prescribe standards for determining the amounts to be granted for local projects and any administrative regulations as may be necessary to implement the provisions of this section. Funds granted

by the department shall be spent by the local governing authorities only for the acquisition and establishment of parks and recreational facilities or major improvements or additions to existing parks and shall not be used for operating or maintenance expenses.

The Committee Amendment No. 1 to **HB 844** is as follows:

On Page 1, line 1, to Page 2, line 10, by deleting Section 1. in its entirety, and by inserting the following in its place:

"Section 1. KRS 97.050 is amended to read as follows:

(1) Whenever the legislative body of any city or the fiscal court of any county or one (1) of them in conjunction with a school district establishes a supervised park, playground, and recreation system as provided in KRS 97.010 to KRS 97.040, or jointly, as provided in KRS 97.035, the legislative body or the fiscal court or other authority participating may appropriate money out of the general fund of the city or county or other authority for the purpose of expanding, equipping, maintaining, and operating such park, playground, or recreation center.

(2) Whenever the legislative body of any city or the fiscal court of any county or one (1) of them in conjunction with a school district establishes a supervised park, playground, and recreation system as provided in KRS 97.010 to KRS 97.040, or jointly, as provided in KRS 97.035, the legislative body or the fiscal court may adopt ordinances granting ad valorem tax credits for property holders donating land for the establishment or expansion of parks, playgrounds, or recreation facilities. If a fiscal court or legislative body passes an ordinance granting tax credits for the donation of land, the ordinance shall:

(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated; and

(b) Allow the property holder to utilize this tax credit until the credit is exhausted.

Section 2. KRS 97.140 is amended to read as follows:

(1) Any city that establishes a recreational project may purchase solely from the funds provided under the authority of KRS 97.100 to 97.240[~~, or may acquire by gift, devise, bequest or grant,~~] lands, structures, rights of way, franchises, easements, or other interests in land necessary for the establishment and maintenance of the project, upon such terms, prices, and considerations as the city considers reasonable.

(2) Any city that establishes a recreational project may acquire by gift, devise, bequest, or grant, lands, structures, rights-of-way, franchises, easements, or other interests in land necessary for the establishment and maintenance of the project. The legislative body of the city may adopt ordinances granting ad valorem tax credits for property holders donating land for the establishment of a project. If the legislative body passes an ordinance granting tax credits for the donation of land, the ordinance shall:

(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated; and

(b) Allow the property holder to utilize this tax credit until the credit is exhausted.

(3) Title to all property acquired for such purposes shall be taken in the name of the city.

Section 3. KRS 148.066 is amended to read as follows:

(1) The Department of Parks shall accept for the state any real estate or personal property conveyed or dedicated for public park purposes to the state or to the department or to its predecessor, but the department is not compelled to accept any such property if it deems it unwise to do so.

(2) The legislative body of any county or city may adopt ordinances granting ad valorem tax credits for property holders donating land or other personal property for the establishment or expansion of a state park. If the legislative body passes an ordinance granting tax credits for the donation of land or other personal property, the ordinance shall:

(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated and the certified appraised value of the personal property; and

(b) Allow the property holder to utilize this tax credit until the credit is exhausted.

(3)[~~(2)~~]The title to all property that has been, or shall be, acquired by the Commonwealth or its agency for public park purposes shall be vested in the Commonwealth. Such property shall be managed, maintained, and improved by the Department of Parks for public park purposes."

The Committee Amendment No. 2 Title to **HB 844** is as follows:

By amending the title to read as follows: "AN ACT relating to parks and recreation."

The Committee on Appropriations and Revenue reported **HB 267,** with Committee Substitute and Committee Amendments attached thereto, **HB 316, HB 824,** and **HB 923** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 267, AN ACT related to Medicaid reimbursement for dentists and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.621 is amended to read as follows:

(1) Reimbursement for physicians and dentists providing services to Medicaid recipients shall be increased to reflect budgeted provider profiles beginning October 1, 1990.

(2) Beginning October 1, 1992, reimbursement to physicians and dentists shall be increased annually in increments which represent a minimum seventy-five percent (75%) of the most recently reported annual change in the consumer price index as computed by the United States Department of Labor.

(3) Beginning on the effective date of this Act, dentists participating in the Medicaid program or Medicaid managed care partnership shall be reimbursed at a rate equal to or greater than one hundred percent (100%) of the seventy-fifth percentile of fees paid to all dentists within the East South Central region of the United States, based upon the most recent survey of dental fees published by the American Dental Association. Dental reimbursement rates shall be reviewed and adjusted biennially by the Department for Medicaid Services.

Section 2. There is appropriated forty million dollars ($40,000,000) per year out of the general fund in the State Treasury for the purpose of compensating dentists for services provided to Medicaid recipients.

The Committee Substitute No. 1 to **HB 267** is as follows:

HB 267, AN ACT related to Medicaid reimbursement for dentists and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.621 is amended to read as follows:

(1) Reimbursement for physicians and dentists providing services to Medicaid recipients shall be increased to reflect budgeted provider profiles beginning October 1, 1990.

(2) Beginning October 1, 1992, reimbursement to physicians and dentists shall be increased annually in increments which represent a minimum seventy-five percent (75%) of the most recently reported annual change in the consumer price index as computed by the United States Department of Labor.

(3) Beginning on the effective date of this Act, dentists participating in the Medicaid program or Medicaid managed care partnership shall be reimbursed at a rate equal to or greater than one hundred percent (100%) of the seventy-fifth percentile of fees paid to all dentists within the East South Central region of the United States, based upon the most recent survey of dental fees published by the American Dental Association. Dental reimbursement rates shall be reviewed and adjusted at least biennially by the Department for Medicaid Services.

Section 2. There is appropriated four million dollars ($4,000,000) in fiscal year 2000-2001 and four million dollars ($4,000,000) in fiscal year 2001-2002 out of the general fund, to be matched with federal funds, for the purpose of compensating dentists for services provided to Medicaid recipients.

The Committee Amendment No. 1 to the Committee Substitute to **HB 267** is as follows:

On page 1, by removing lines 16 to 19.

The Committee Amendment No. 2 Title to **HB 267** is as follows:

"By amending the title to read as follows: An ACT related to Medicaid reimbursement for dentists."

HB 316, AN ACT relating to a Civil War memorial and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is appropriated in fiscal year 2000-2001 an amount up to $250,000 from the General Fund to the Kentucky Heritage Council for the purpose of the design and construction of a Kentucky Civil War Memorial in the Vicksburg, Mississippi National Military Park contingent upon the availability of $50,000 in non-General Fund dollars. The General Fund amount shall be reduced by one dollar for each dollar over $50,000 obtained from other sources. The balance of the General Fund moneys at the end of the fiscal year shall lapse to the credit of the General Fund.

HB 824, AN ACT relating to property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the secretary of revenue for any of the following grounds: willful disobedience of any just or legal order of the cabinet, or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the secretary determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the secretary or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The secretary or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the secretary of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the secretary of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Revenue Cabinet pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the cabinet shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

HB 923, AN ACT relating to the Department of Law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of sixty-eight thousand (68,000) or more, or which has a full-time Commonwealth attorney, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of ***one thousand dollars ($1,000)***[~~five hundred dollars ($500)~~], which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.

Section 2. KRS 15.765 is amended to read as follows:

(1) Each county attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which shall be the total compensation as county attorney which he received during the calendar year 1976, but which in no event shall be less than twenty thousand dollars ($20,000). Except, however, the annual salary of each county attorney shall be equal to that of each Commonwealth's attorney who is not prohibited from the private practice of law as provided in KRS 15.755(5), effective January 1, 1990.

(2) Each county attorney shall be paid each month the sum of ***five hundred dollars ($500)***[~~two hundred fifty dollars ($250)~~], which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(3) In order to equate the compensation of county attorneys with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.

(4) The county attorney shall not be prohibited from engaging in the private practice of law.

The Committee on Appropriations and Revenue reported **HB 142, HB 144, HB 181, HB 213,** with Committee Amendment attached thereto, **HB 430,** with Committee Substitute and Committee Amendment attached thereto, **HB 538, HB 739,** with Committee Substitute and Committee Amendment attached thereto, **HB 502,** with Committee Substitute and Committee Amendments attached thereto, **HB 576,** with Committee Substitute attached thereto, **HB 577,** with Committee Substitute attached thereto, **HJR 83, HJR 84,** and **HJR 85** with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 213** is as follows:

On page 1, line 3, by removing all new language and removing all brackets and strikethroughs, and

On page 1, line 4, by inserting before the period at the end of the line: "***or more as provided in the state executive branch budget bill.***".

The Committee Amendment No. 1 to **HB 739** is as follows:

On page 33, line 1 after the second comma by inserting "***the Teachers' Retirement System shall maintain a life insurance policy in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance policy shall be payable***";

On page 33, line 2 by deleting "***five thousand dollars ($5,000)***" and removing the brackets and strikethroughs from "three thousand dollars ($3,000)";

On page 33, line 2 by placing an opening bracket in front of "a" and on line 3 by placing a closing bracket after "paid" and striking through the language in between;

On page 33, line 4 after the period by inserting the following:

"***The Teachers' Retirement System shall maintain a life insurance policy in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance policy shall be payable upon the death of an active contributing member***";

On page 33, line 4 by placing an opening bracket in front of "Upon" and on line 5 by placing a closing bracket after "paid" and striking through all language in between;

On page 33, line 7 after "for" by inserting "***payment of life insurance proceeds***";

On page 33, line 7 by placing brackets around and striking through "the death benefit";

On page 33, line 9 after " to the" by inserting "***coverage and payment of proceeds by the life insurance policy***"; and

On page 33, line 10 by placing brackets around and striking through "payment of death benefits";

On page 33, line 11 after " of the" by inserting "***proceeds of the life insurance policy;***

On page 33, line 11 by placing brackets around and striking through "death benefit";

On page 33, line 14 after "the" by inserting "***proceeds of the life insurance policy***"; and

On page 33, line 14 by placing brackets around and striking through "death benefit".

The Committee Substitute No. 1 to **HB 502** is as follows:

HB 502, AN ACT relating to the financing for the budgetary operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2000, and for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2000-01	2001-02
General Fund	127,631,900	69,962,700
Restricted Funds	1,197,600	950,000
Federal Funds	373,400	261,700
Total	129,202,900	71,174,400

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

Included in the above General Fund (Tobacco) appropriation is $2,559,100 in fiscal year 2000-2001 and $3,157,700 in fiscal year 2001-2002 and included in the above Federal Funds appropriation is $150,000 in each fiscal year to support Community Councils, Community Councils staffing, the Business Council, the Professional Development Council, the Early Childhood Board, evaluation of the initiative, and the Headstart Collaborative.

b. Office of State Budget Director

	1999-00	2000-01	2001-02
General Fund	200,000	3,633,900	3,868,300
Restricted Funds		924,000	963,000
Total	200,000	4,557,900	4,831,300

c. State Planning Fund

	2000-01	2001-02
General Fund	500,000	500,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a $50,000 grant in each fiscal year to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1999-00	2000-01	2001-02
General Fund	200,000	131,765,800	74,331,000
Restricted Funds		2,121,600	1,913,000
Federal Funds		373,400	261,700
TOTAL	200,000	134,260,800	76,505,700

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2000-01	2001-02
General Fund	-0-	1,267,000
Restricted Funds	61,690,600	63,420,700
Road Funds	125,000	125,000
Total	61,815,600	64,812,700

Included in the above Restricted Funds appropriation is $520,000 in fiscal year 2000-2001 and $536,000 in fiscal year 2001-2002 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that directly benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

There is established in the Governor's Office of Technology the Office of Statewide 911 Coordination. Included in the above Restricted Funds appropriation is $200,000 in each fiscal year for the Office of Statewide 911 Coordination.

The General Fund appropriation above represents debt service on the Unified Criminal Justice Information System, Maintaining Kentucky Spatial Data Infrastructure, and the Statewide Microwave Network Maintenance.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2000-01	2001-02
General Fund	7,453,300	14,108,800
Restricted Funds	12,456,700	16,357,600
Total	19,910,000	30,466,400

Included in the above General Fund appropriation is $203,400 in fiscal year 2000-2001 and $3,527,300 in fiscal year 2001-2002 for personnel and operating costs for the Eastern Kentucky Veterans' Center; $203,400 in fiscal year 2000-2001 and $3,445,900 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Center; $350,000 in each fiscal year for additional staffing for the Commissioner's Office and Field Services; and $206,000 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Cemetery.

Included in the above General Fund appropriation in fiscal year 2001-2002 is $66,000 for debt service.

Included in the above General Fund appropriation in fiscal year 2000-2001 is $312,000 grant funds for the World War II War Memorial in Washington, D. C.

4. SECRETARY OF STATE

	2000-01	2001-02
General Fund	2,425,100	2,491,400
Restricted Funds	154,000	165,000
Total	2,579,100	2,656,400

In accordance with the provision of KRS 14.140, at the close of fiscal year 1999-2000, any Restricted Funds amount received in the Limited Liability Companies program in excess of $154,000 shall be transferred to the General Fund. At the close of fiscal year 2000-2001, any Restricted Funds amount received in the Limited Liability Companies program in excess of $165,000 shall be transferred to the General Fund.

5. BOARD OF ELECTIONS

	2000-01	2001-02
General Fund	3,542,500	3,945,600
Restricted Funds	40,000	60,000
Total	3,582,500	4,005,600

Included in the above General Fund appropriation is $2,126,800 in fiscal year 2000-2001 and $2,461,000 in fiscal year 2001-02 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Included in the above General Fund appropriation, and subject to passage of enabling legislation, $150,000 is appropriated in fiscal year 2000-2001 and $152,700 in fiscal year 2001-2002 to provide an increase to all eligible precincts for election expenses. Additionally, as part of this legislation, the recommended maximum state payment rate is increased from the current level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 and KRS 117.343 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $4,000 in fiscal year 2000-2001 to pay the expense incurred every year of a Presidential election. In accordance with KRS 118.455 the state is required to pay per diem and mileage costs to each elector of President and Vice President of the United States, for each day they are at the State Capitol as an elector.

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700).

6. TREASURY

	2000-01	2001-02
General Fund	2,239,200	2,402,000
Restricted Funds	791,900	731,900
Total	3,031,100	3,133,900

Included in the Restricted Funds appropriation above is a nonrevenue recurring transfer from the Unclaimed Property Fund. In each year of the 2000-2002 biennium, $731,900 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

7. ATTORNEY GENERAL

	2000-01	2001-02
General Fund	13,066,000	13,751,400
Restricted Funds	7,542,300	7,796,900
Federal Funds	2,494,300	2,584,000
Total	23,102,600	24,132,300

Included in the above Restricted Funds appropriation is $119,400 in fiscal year 2000-2001 and $123,000 in fiscal year 2001-2002 for debt service in the Uninsured Employers Fund related to court-ordered interest payments in workers' compensation settlement cases.

8. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2000-01	2001-02
General Fund	22,058,300	23,509,700
Restricted Funds	322,500	179,900
Federal Funds	629,200	608,300
Total	23,010,000	24,297,900

Included in the above General Fund appropriation is $564,700 in fiscal year 2000-2001 and $592,900 in fiscal year 2001-2002 to allow part-time Commonwealth's Attorneys to become full-time.

Notwithstanding KRS 15.757(2), a circuit may revert to part-time status at the option of a newly elected Commonwealth's Attorney if the circuit has been authorized to become full-time effective on or after January 1, 2001, based upon a request from the part-time Commonwealth's Attorney who does not seek reelection for the term beginning January 1, 2001, and the newly elected Commonwealth's attorney notifies the Prosecutors Advisory Council on or before November 15, 2000.

Included in the above General Fund appropriation is $208,500 in fiscal year 2000-2001 and $627,100 in fiscal year 2001-2002 for salary improvements. No funds shall be expended for salary improvements until the Prosecutors Advisory Council reviews the salary levels of the elected Commonwealth's Attorneys' employees, establishes a salary enhancement plan, and reports its findings to the Interim Joint Committee on Appropriations and Revenue.

Included in the above General Fund appropriation is $336,000 in each fiscal year to provide each Commonwealth's Attorney of the state the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that each Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.755(6).

b. County Attorneys

	2000-01	2001-02
General Fund	19,772,000	21,085,200
Restricted Funds	42,600	40,400
Federal Funds	251,900	264,100
Total	20,066,500	21,389,700

Included in the above General Fund appropriation is $163,900 in fiscal year 2000-2001 and $533,900 in fiscal year 2001-2002 for salary improvements. No funds shall be expended for salary improvements until the Prosecutors Advisory Council reviews the salary levels of the elected County Attorneys' employees, establishes a salary enhancement plan, and reports its findings to the Interim Joint Committee on Appropriations and Revenue.

Included in the above General Fund appropriation is $360,000 in each fiscal year to provide each County Attorney of the state the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.765(2).

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2000-01	2001-02
General Fund	41,830,300	44,594,900
Restricted Funds	365,100	220,300
Federal Funds	881,100	872,400
TOTAL	43,076,500	45,687,600

9. AUDITOR OF PUBLIC ACCOUNTS

	2000-01	2001-02
General Fund	5,775,400	5,911,600
Restricted Funds	4,709,000	4,405,000
Total	10,484,400	10,316,600

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

10. AGRICULTURE

	2000-01	2001-02
General Fund	23,616,500	24,655,600
Restricted Funds	2,636,500	2,791,300
Federal Funds	2,035,000	2,034,800
Total	28,288,000	29,481,700

Notwithstanding KRS 251.650, Restricted Funds are appropriated in the amounts of $50,000 in fiscal year 2000-2001 and $50,000 in fiscal year 2001-2002 to support fairs and shows.

Notwithstanding KRS 251.650, Restricted Funds are appropriated in the amounts of $200,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 to support the aquaculture program at Kentucky State University.

Notwithstanding KRS 251.640, no fees shall be assessed by the Department of Agriculture until such time as the amount in the fund drops below $2,000,000.

Included in the above General Fund appropriation is $2,516,000 in fiscal year 2000-2001 and $2,516,000 in fiscal year 2001-2002 for new debt service to fund the Purchase Agriculture Conservation Easement program.

Included in the above General Fund appropriation is $500,000 in fiscal year 2000-2001 and $500,000 in fiscal year 2001-2002 to fund grants to local governments and humane societies. Included in the fiscal year 2000-2001 appropriation is $100,000 for the Corbin Regional Animal Shelter.

Included in the above General Fund appropriation is $800,000 in each fiscal year to support agriculture programs at regional universities, to be equally distributed to Eastern Kentucky University, Western Kentucky University, Morehead State University, and Murray State University.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic

Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended funds for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Department of Alcoholic Beverage Control shall jointly participate in the program's enforcement.

11. MILITARY AFFAIRS

	1999-2000	2000-01	2001-02
General Fund		10,849,500	11,220,300
Restricted Funds	2,000,000	16,695,200	17,055,100
Federal Funds		9,175,000	9,395,200
Total	2,000,000	36,719,700	37,670,600

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is an additional amount of $100,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for Disaster and Emergency Management County Offices.

Included in the above General Fund appropriation is $23,000 in fiscal year 2001-2002 for debt service.

12. PERSONNEL BOARD

	2000-01	2001-02
General Fund	583,600	595,400
Restricted Funds	5,000	6,100
Total	588,600	601,500

13. LOCAL GOVERNMENT

	1999-2000	2000-01	2001-02
General Fund		11,452,900	12,189,300
Restricted Funds		665,400	671,400
Federal Funds	175,000	47,080,800	44,080,800
Total	175,000	59,199,100	56,941,500

Included in the above General Fund appropriation is $606,000 in fiscal year 2001-2002 for debt service.

14. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2000-01	2001-02
General Fund	27,375,600	28,996,400

Provided in the above General Fund appropriation is an additional $500,000 in fiscal year 2001-2002 to be distributed in accordance with KRS 42.455.

b. Local Government Economic Development Fund

	2000-01	2001-02
General Fund	33,305,300	36,708,600

The above appropriations from the General Fund are based on the official estimate of the Secretary of the Finance and Administration Cabinet for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of forty-one percent (40%) effective July 1, 2000, and forty-four percent (44%) effective July 1, 2001, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,420,000 in fiscal year 2000-2001 and $1,379,500 in fiscal year 2001-2002 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2000-2001 and $1,000,000 in fiscal year 2001-2002 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4585, effective July 1, 2001, the amount transferred annually from the Local Government Economic Development Fund (LGEDF) into the Local Government Economic Assistance Fund (LGEAF) under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002, has been transferred as Restricted Funds to the Coal County Development Office within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $537,600 in fiscal year 2000-2001 and $550,500 in fiscal year 2001-2002 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $938,300 in fiscal year 2000-2001 and $960,800 in fiscal year 2001-2002 has been credited to the Secondary Wood Products Development Fund in each year of the biennium.

Notwithstanding KRS 42.4588(2) and (4), beginning in fiscal year 1999-2000 and continuing in fiscal year 2000-2001 and fiscal year 2001-2002, twenty percent (20%) of the payments from the following LGEDF counties will be set aside for job training grants within coal counties: Bell, Boyd, Breathitt, Carter, Clay, Daviess, Floyd, Harlan, Henderson, Hopkins, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, McLean, Magoffin, Martin, Muhlenberg, Ohio, Owsley, Perry, Pike, Union, Webster, Whitley, and Wolfe. Union County will not participate in the program in fiscal year 1999-2000. The Coal County Development office will administer the job training grant program.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 1999-2000 to fiscal year 2000-2001 and from fiscal year 2000-2001 to fiscal year 2001-2002 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2000-01	2001-02
General Fund	2,000,000	2,000,000

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2000-01	2001-02
General Fund	62,680,900	67,705,000

15. COMMISSION ON HUMAN RIGHTS

	1999-2000	2000-01	2001-02
General Fund		2,036,000	2,088,300
Restricted Funds		12,000	12,400
Federal Funds	181,000	129,400	170,800

Total	181,000	2,177,400	2,271,500

16. COMMISSION ON WOMEN

	2000-01	2001-02
General Fund	262,500	269,900
Restricted Funds		3,200
Federal Funds	100	100
Total Funds	262,600	273,200

17. KENTUCKY RETIREMENT SYSTEMS

	2000-01	2001-02
Restricted Funds	11,713,400	13,863,000

18. REGISTRY OF ELECTION FINANCE

	2000-01	2001-02
General Fund	3,482,900	3,557,200
Restricted Funds	200,000	20,000
Total	3,682,900	3,577,200

Notwithstanding KRS 45.229, $1,000,000 of the General Fund appropriation from fiscal year 1999-2000 shall not lapse and shall carry forward to fiscal year 2000-2001 and $3,000,000 of the General Fund appropriation above from fiscal year 2000-2001 shall not lapse and shall carry forward into fiscal year 2001-2002 for the Election Campaign Fund.

19. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2000-01	2001-02
Restricted Funds	782,300	723,900

b. Alcohol and Drug Counselors

	2000-01	2001-02
Restricted Funds	78,300	89,700

c. Board of Architects

	2000-01	2001-02
Restricted Funds	204,700	218,800

d. Board of Art Therapists

	2000-01	2001-02
Restricted Funds	9,600	11,100

e. Kentucky Athletic Commission

	2000-01	2001-02
Restricted Funds	118,700	130,900

f. Board of Auctioneers

	2000-01	2001-02
Restricted Funds	340,600	351,000

g. Board of Barbering

	2000-01	2001-02
Restricted Funds	210,700	209,000

h. Board of Chiropractic Examiners

	2000-01	2001-02
Restricted Funds	162,400	173,800

i. Board of Dentistry

	2000-01	2001-02
Restricted Funds	436,300	461,500

j. Board of Dietitians and Nutritionists

	2000-01	2001-02

Restricted Funds	58,800	68,000

k. Board of Embalmers and Funeral Directors

	2000-01	2001-02
Restricted Funds	202,400	209,900

l. Board of Engineers and Land Surveyors

	2000-01	2001-02
Restricted Funds	1,092,400	1,134,100

m. Board of Fee-Based Pastoral Counselors

	2000-01	2001-02
Restricted Funds	17,200	20,600

n. Board of Geologists

	2000-01	2001-02
Restricted Funds	142,600	155,800

o. Board of Hairdressers and Cosmetologists

	2000-01	2001-02
Restricted Funds	981,800	1,041,300

p. Board of Hearing Instrument Specialists

	2000-01	2001-02
Restricted Funds	53,000	61,100

q. Board of Interpreters for Deaf and Hard of Hearing

	2000-01	2001-02
Restricted Funds	71,400	79,500

r. Board of Landscape Architects

	2000-01	2001-02
Restricted Funds	51,800	54,200

s. Board of Marriage and Family

	2000-01	2001-02
Restricted Funds	64,100	72,500

t. Board of Medical Licensure

	2000-01	2001-02
Restricted Funds	1,759,200	1,827,300

u. Board of Nursing

	2000-01	2001-02
Restricted Funds	3,277,700	3,354,100

Included in the above Restricted Funds appropriation is $200,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2000-01	2001-02
Restricted Funds	85,000	89,000

w. Board of Occupational Therapy

	2000-01	2001-02
Restricted Funds	66,800	76,600

x. Board of Ophthalmic Dispensers

	2000-01	2001-02
Restricted Funds	46,800	55,200

y. Board of Optometric Examiners

	2000-01	2001-02
Restricted Funds	146,700	143,800

z. Board of Pharmacy

	2000-01	2001-02
Restricted Funds	752,800	786,600

aa. Board of Physical Therapy

	2000-01	2001-02
Restricted Funds	297,800	301,100

ab. Board of Podiatry

	2000-01	2001-02
Restricted Funds	13,500	13,500

ac. Board of Professional Counselors

	2000-01	2001-02
Restricted Funds	42,000	46,800

ad. Board of Psychology

	2000-01	2001-02
Restricted Funds	195,600	207,900

ae. Real Estate Appraisers Board

	2000-01	2001-02
Restricted Funds	495,500	511,700

af. Real Estate Commission

	2000-01	2001-02
Restricted Funds	1,888,800	1,911,400

Included in the above Restricted Funds appropriation is $797,500 in fiscal year 2000-2001 and $800,000 in fiscal year 2001-2002 for Real Estate Education and Recovery.

ag. Board of Respiratory Care

	2000-01	2001-02
Restricted Funds	100,600	111,300

ah. Board of Social Workers

	2000-01	2001-02
Restricted Funds	123,000	140,000

ai. Board of Speech Pathologists and Audiologists

	2000-01	2001-02
Restricted Funds	96,900	109,000

aj. Board of Veterinary Examiners

	2000-01	2001-02
Restricted Funds	175,000	197,900

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2000-01	2001-02
Restricted Funds	14,642,800	15,149,900

20. GOVERNMENTAL SERVICES CENTER

	2000-01	2001-02
Restricted Funds	1,478,000	1,512,000

21. EXECUTIVE BRANCH ETHICS COMMISSION

	2000-01	2001-02
General Fund	295,000	310,000
Restricted Funds	6,000	10,000
Total	301,000	320,000

22. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2000-01	2001-02
General Fund	31,000,000	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 1999-2000 or fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal years 2000-2001 and 2001-2002, respectively.

b. Attorney General Expense

	1999-00	2000-01	2001-02
General Fund	470,000	225,000	225,000

c. Board of Claims Awards

	2000-01	2001-02
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $1,500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2000-01	2001-02
General Fund	2,000,000	2,000,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2000-01	2001-02
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2000-01	2001-02
General Fund	500,000	500,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2000-01	2001-02
General Fund	50,000	50,000

h. Frankfort in Lieu of Taxes

	2000-01	2001-02
General Fund	195,000	195,000

i. Frankfort Cemetery

	2000-01	2001-02
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2000-01	2001-02
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2000-01	2001-02
General Fund	240,000	264,000

l. Master Commissioner--Social Security

	2000-01	2001-02

General Fund	216,000	226,000

m. Workers' Compensation

	2000-01	2001-02
General Fund	288,000	288,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2000-01	2001-02
General Fund	50,000	50,000

o. Blanket Employee Bonds

General Fund	200,000	-0-

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1999-00	2000-01	2001-02
General Fund	470,000	36,216,500	5,050,500

Included in the above appropriations is $0 in fiscal year 2000-2001 and $0 in fiscal year 2001-2002 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

TOTAL - GOVERNMENT OPERATIONS

	1999-00	2000-01	2001-02
General Fund	670,000	359,573,900	290,445,200
Restricted Funds		144,563,100	153,290,400
Federal Funds		62,169,100	59,399,800
Road Funds		125,000	125,000
TOTAL	670,000	559,793,500	496,134,800

B. CABINET FOR ECONOMIC DEVELOPMENT

23. a. Secretary

	2000-01	2001-02
General Fund	1,955,000	1,392,000
Restricted Funds	3,063,000	2,900,000
Total	5,018,000	4,292,000

Included in the above Restricted Funds appropriation is $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 for the East Kentucky Jobs Creation Corporation and $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 for the West Kentucky Jobs Creation Corporation. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue. Also included in the above Restricted Funds appropriation is $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office will be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 for the Kentucky Technology Service Grant program each fiscal year of the biennium.

Included in the Restricted Funds appropriation above is $381,000 in fiscal year 2000-2001 and $381,000 in fiscal year 2001-2002 for the Louisville Waterfront Development Corporation.

Included in the above General Fund appropriation is $250,000 in fiscal year 2000-2001 for the Strategic Technology Capacity Initiative Study. Notwithstanding KRS 45.229, any funds remaining at the end of fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal year 2001-2002.

Included in the above General Fund appropriation is $350,000 in fiscal year 2000-2001 that will be used to support the

Manufacturing Modernization Project that is part of the Knowledge-Based Economy Initiative embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. Notwithstanding KRS 45.229, any funds remaining at the end of fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal year 2001-2002.

Included in the Restricted Funds appropriation above is $683,000 in fiscal year 2000-2001 and $569,000 in fiscal year 2001-2002 for the Office of Commissioner for the New Economy.

b. Administration and Support

	2000-01	2001-02
General Fund	2,104,500	2,198,700
Restricted Funds	160,000	160,000
Total	2,264,500	2,358,700

c. Business Development

	2000-01	2001-02
General Fund	2,503,400	2,571,800

d. Financial Incentives

	2000-01	2001-02
General Fund	3,669,400	3,693,200
Restricted Funds	1,768,000	1,834,000
Total	5,437,400	5,527,200

The General Fund appropriation for fiscal year 1999-2000 and for fiscal year 2000-2001 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded, shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

e. Community Development

	2000-01	2001-02
General Fund	2,951,100	3,068,100
Restricted Funds	188,000	456,000
Federal Funds	160,000	160,000
Total	3,299,100	3,684,100

f. Debt Service

	2000-01	2001-02
General Fund		612,000

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2000-01	2001-02
General Fund	13,183,400	13,535,800
Restricted Funds	5,179,000	5,350,000
Federal Funds	160,000	160,000
TOTAL	18,522,400	19,045,800

C. EDUCATION

24. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2000-01	2001-02
General Fund	2,208,786,300	2,236,293,600

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,572,050,600 in fiscal year 2000-2001 and $1,594,762,000 in fiscal year 2001-2002 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $194,322,200 in fiscal year 2000-2001 and $198,876,200 in fiscal year 2001-2002 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $125,929,500 in fiscal year 2000-2001 and $121,121,800 in fiscal year 2001-2002 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,381,200 in fiscal year 2000-2001 and $2,416,900 in fiscal year 2001-2002 for vocational transportation.

Included in the above appropriation is $20,468,500 in fiscal year 2000-2001 and $21,452,600 in fiscal year 2001-2002 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $47,640,800 in fiscal year 2000-2001 and $44,809,300 in fiscal year 2001-2002 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $245,993,500 in fiscal year 2000-2001 and $252,854,800 in fiscal year 2001-2002 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	2000-01	2001-02
General Fund	2,637,700	2,676,900
Restricted Funds	427,200	425,400
Federal Funds	538,600	551,500
Total	3,603,500	3,653,800

c. Management Support Services

	2000-01	2001-02
General Fund	393,299,900	428,319,300
Restricted Funds	3,090,500	2,989,500
Federal Funds	172,455,500	176,555,400
Total	568,845,900	607,864,200

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in each fiscal year for reimbursement to local school districts for the Out-of-District Children Program.

Included in the above General Fund appropriation is $261,274,800 in fiscal year 2000-2001 and $289,848,100 in fiscal year 2001-2002 to provide health and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $2,463,700 in fiscal year 2000-2001 and $2,522,900 in fiscal year 2001-2002 to enable the Department of Education to provide the employer match for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation is $1,278,000 in fiscal year 2001-2002 for debt service on new projects.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year for the Community Education Program.

d. Learning Support Services

	1999-00	2000-01	2001-02
General Fund	865,400	186,460,800	191,607,700
Restricted Funds		3,604,200	3,571,300
Federal Funds		292,032,300	298,881,900
Total	865,400	482,097,300	494,060,900

Included in the above General Fund appropriation is $10,000,000 in each fiscal year for the school rewards escrow account. The above General Fund appropriation includes $40,000 in fiscal year 2000-2001 and $40,000 in fiscal year 2001-2002 for the Kentucky Headstart Collaboration Project. These funds, as well as $150,000 in Federal Funds in each fiscal year, shall be transferred to the Governor's Office of Early Childhood Development. The above General Fund appropriation includes

$3,850,000 in fiscal year 2000-2001 and $3,850,000 in fiscal year 2001-2002 for technical education equalization. These funds shall not be expended prior to the development of specific criteria for equalization of funding for Level III programs offered by vocational/technical schools operated by local school districts and evaluation by the Workforce Development Cabinet of programs for which funding equalization is requested. Also included in the above General Fund appropriation is $5,742,200 in fiscal year 2000-2001 and $5,974,800 in fiscal year 2001-2002 for the Kentucky School for the Blind, and $9,226,500 in fiscal year 2000-2001 and $9,668,300 in fiscal year 2001-2002 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $50,000 in each fiscal year to support a Community After School Program in local school district number 441. Also included in the above General Fund appropriation is $50,000 in each fiscal year to support a Community After School Program in local school district number 365.

TOTAL - EDUCATION

	1999-00	2000-01	2001-02
General Fund	865,400	2,791,184,700	2,858,897,500
Restricted Funds		7,121,900	6,986,200
Federal Funds		465,026,400	475,988,800
TOTAL	865,400	3,263,333,000	3,341,872,500

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

25. OFFICE OF THE SECRETARY

	2000-01	2001-02
General Fund	2,729,500	2,801,500
Restricted Funds	70,400	70,400
Total	2,799,900	2,871,900

Included in the above General Fund appropriation is $4,100 in fiscal year 2000-2001 and $4,200 in fiscal year 2001-2002 for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is $1,191,400 in fiscal year 2000-2001 and $1,220,000 in fiscal year 2001-2002 for the Governor's Scholars Program.

Included in the above General Fund appropriation is $400,000 in fiscal year 2000-2001 and $405,000 in fiscal year 2001-2002 for the Governor's School for the Arts.

26. KENTUCKY ARTS COUNCIL

	2000-01	2001-02
General Fund	4,801,700	4,895,500
Restricted Funds	448,500	456,500
Federal Funds	600,000	611,300
Total	5,850,200	5,963,300

27. TEACHERS' RETIREMENT SYSTEM

	2000-01	2001-02
General Fund	75,829,500	82,222,300
Restricted Funds	5,696,400	6,021,000
Total	81,525,900	88,243,300

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2000-2001 or fiscal year 2001-2002 for the cost of administration.

Included in the above General Fund appropriation is $2,311,500 in fiscal year 2000-2001 and $5,925,000 in fiscal year 2001-2002 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent (2.3%) in fiscal year 2000-2001 and an additional two and one-half percent (2.5%) in fiscal year 2001-2002.

Included in the above General Fund appropriation is $3,698,800 in fiscal year 2000-2001 and $7,886,400 in fiscal year 2001-2002 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2000-2002 biennium.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2000-01	2001-02
General Fund	72,145,200	79,030,500

Included in the above General Fund appropriation is $70,107,700 in fiscal year 2000-2001 and $70,687,300 in fiscal year 2001-2002 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $1,800,000 in fiscal year 2000-2001 and $8,100,000 in fiscal year 2001-2002 for debt service for previously authorized bonds.

The School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2000-2002 biennium in anticipation of debt service availability during the 2002-2004 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2000-2002 biennium.

29. DEAF AND HARD OF HEARING

	2000-01	2001-02
General Fund	875,700	898,600
Restricted Funds	200,000	200,000
Total	1,075,700	1,098,600

30. KENTUCKY HERITAGE COUNCIL

	2000-01	2001-02
General Fund	978,100	977,600
Restricted Funds	246,800	256,300
Federal Funds	795,800	795,800
Total	2,020,700	2,029,700

Included in the above General Fund appropriation is $50,000 in fiscal year 2000-2001 for Underground Railroad research and documentation.

31. KENTUCKY EDUCATIONAL TELEVISION

	2000-01	2001-02
General Fund	15,141,900	17,063,300
Restricted Funds	1,146,300	1,226,500
Federal Funds	700,000	700,000
Total	16,988,200	18,989,800

Included in the above General Fund appropriation is $1,564,000 in fiscal year 2001-2002 for debt service on new projects.

32. KENTUCKY HISTORICAL SOCIETY

	2000-01	2001-02
General Fund	6,196,200	6,438,700
Restricted Funds	521,400	643,400
Federal Funds	111,100	413,100
Total	6,828,700	7,495,200

33. LIBRARIES AND ARCHIVES

a. General Operations

	2000-01	2001-02
General Fund	6,796,100	7,688,300
Restricted Funds	1,822,600	1,879,700
Federal Funds	1,684,900	1,724,700
Total	10,303,600	11,292,700

Included in the above General Fund appropriation is $255,000 in fiscal year 2001-2002 for debt service on new projects.

b. Direct Local Aid

	2000-01	2001-02

General Fund	6,675,500	6,675,500
Restricted Funds	9,000	9,000
Federal Funds	576,000	576,000
Total	7,260,500	7,260,500

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2000-01	2001-02
General Fund	13,471,600	14,363,800
Restricted Funds	1,831,600	1,888,700
Federal Funds	2,260,900	2,300,700
Total	17,564,100	18,553,200

34. KENTUCKY CENTER FOR THE ARTS

	2000-01	2001-02
General Fund	640,500	655,900

35. ENVIRONMENTAL EDUCATION COUNCIL

	2000-01	2001-02
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2000-01	2001-02
General Fund	192,809,900	209,347,700
Restricted Funds	10,311,400	10,912,800
Federal Funds	4,467,800	4,820,900
TOTAL	207,589,100	225,081,400

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

36. COMMUNITY BASED SERVICES

	2000-01	2001-02
General Fund	283,608,600	300,691,200
Restricted Funds	93,280,100	98,711,000
Federal Funds	432,526,900	445,517,700
Total	809,415,600	844,919,900

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

Due to the demands placed upon the Cabinet to meet the increasing participation rates required for welfare reform, and in order to meet the state match requirements for the Welfare to Work Program, any General Fund appropriation unexpended in fiscal year 1999-2000 of up to $8,500,000 and in fiscal year 2000-2001 of up to $2,500,000 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act.

37. ADMINISTRATION SERVICES

	2000-01	2001-02
General Fund	30,439,400	31,231,100
Restricted Funds	4,183,400	4,168,700
Federal Funds	36,047,700	37,636,000
Total	70,670,500	73,035,800

Included in the above General Fund appropriation is $226,800 in fiscal year 2000-2001 and $232,200 in fiscal year 2001-2002, and in the Federal Funds appropriation is $2,970,700 in fiscal year 2000-2001 and $2,978,400 in fiscal year 2001-2002 for the Kentucky Commission on Community Volunteerism and Service which was transferred from the Council on Postsecondary Education to the Cabinet for Families and Children by Executive Order 2000-8.

Included in the above General Fund appropriation is $69,000 in fiscal year 2001-2002 for debt service.

38. DISABILITY DETERMINATIONS

	2000-01	2001-02
Restricted Funds	74,000	75,800
Federal Funds	37,418,900	38,559,100
Total Funds	37,492,900	38,634,900

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2000-01	2001-02
General Fund	314,048,000	331,922,300
Restricted Funds	97,537,500	102,955,500
Federal Funds	505,993,500	521,712,800
Total	917,579,000	956,590,600

F. FINANCE AND ADMINISTRATION CABINET

39. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2000-01	2001-02
General Fund	12,267,800	12,438,400
Restricted Funds	3,484,000	3,644,000
Federal Funds	58,148,000	58,197,000
Total	73,899,800	74,279,400

Included in the above General Fund appropriation is $200,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Debt Service

	2000-01	2001-02
General Fund	218,214,000	238,015,000
Road Fund	3,665,000	3,668,000
Total	221,879,000	241,683,000

Included in the above General Fund appropriation is $7,387,000 in fiscal year 2000-2001 and $26,844,000 in fiscal year 2001-2002 for new debt service.

c. Administration

	2000-01	2001-02
General Fund	3,776,100	3,789,600
Restricted Funds	9,039,000	9,121,000
Road Fund	277,000	283,000
Total	13,092,100	13,193,600

d. Facilities Management

	2000-01	2001-02
General Fund	8,598,300	8,822,300
Restricted Funds	20,634,000	21,014,000
Total	29,232,300	29,836,300

e. County Costs

	1999-00	2000-01	2001-02
General Fund	1,632,000	18,899,000	20,881,000
Restricted Funds		1,327,000	1,327,000
Total	1,632,000	20,226,000	22,208,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2000-2001 and $5,431,000 in fiscal year 2001-2002 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget

Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

f. County Fees

	1999-00	2000-01	2001-02
Restricted Funds	16,154,100	71,212,900	74,664,400

TOTAL - FINANCE AND ADMINISTRATION CABINET

		2000-01	2001-02
General Fund	1,632,000	261,755,200	283,946,300
Restricted Funds	16,154,100	105,696,900	109,770,400
Federal Funds		58,148,000	58,197,000
Road Fund		3,942,000	3,951,000
TOTAL	17,786,100	429,542,100	455,864,700

G. CABINET FOR HEALTH SERVICES

Budget Units

40. MEDICAID SERVICES

a. Administration

	2000-01	2001-02
General Fund	17,323,700	18,079,900
Restricted Funds	10,981,000	10,811,600
Federal Funds	28,635,800	28,516,900
Total	56,940,500	57,408,400

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

b. Benefits

	2000-01	2001-02
General Fund	707,895,000	763,493,300
Restricted Funds	226,448,500	213,744,900
Federal Funds	2,253,554,300	2,354,579,300
Total	3,187,897,800	3,331,817,500

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 1999-2000 and 2000-2001 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for Medicaid Benefits, an amount up to $4,000,000 may be used for Medicaid Administration, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management. Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

41. PUBLIC HEALTH

	1999-00	2000-01	2001-02
General Fund		78,659,200	84,387,800
Restricted Funds		12,830,200	15,427,900

Federal Funds	437,500	122,036,400	122,032,300
Total	437,500	213,525,800	221,848,000

Notwithstanding other provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe user fee amounts which are provided in the applicable agency fund appropriations.

42. MENTAL HEALTH/MENTAL RETARDATION

	2000-01	2001-02
General Fund	171,531,200	182,213,900
Restricted Funds	146,559,800	153,172,900
Federal Funds	45,587,300	45,723,600
Total	363,678,300	381,110,400

Included in the above General Fund appropriation is $646,000 in fiscal year 2001-2002 for debt service on new projects.

43. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2000-01	2001-02
General Fund	7,043,800	6,781,400
Restricted Funds	3,495,100	3,179,000
Federal Funds	4,668,800	4,669,000
Total	15,207,700	14,629,400

44. CERTIFICATE OF NEED

	2000-01	2001-02
Restricted Funds	462,600	484,700

45. AGING SERVICES

	2000-01	2001-02
General Fund	25,019,800	25,584,200
Restricted Funds	4,965,500	5,471,300
Federal Funds	17,153,800	17,148,600
Total	47,139,100	48,204,100

46. ADMINISTRATIVE SUPPORT

	2000-01	2001-02
General Fund	10,018,100	10,352,100
Restricted Funds	7,056,000	7,876,500
Federal Funds	10,561,800	10,618,200
Total	27,635,900	28,846,800

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

The enacted fiscal year 1999-2000 appropriation in House Bill 321 (1998 Ky. Acts ch. 615) includes $65,700 from the General Fund which is authorized to be provided to the new Office of Women's Health, which is being established within the Administrative Support appropriation unit in accordance with KRS 194A.095, from the Office of Certificate of Need.

Included in the above General Fund appropriation is $384,000 in fiscal year 2001-2002 for debt service on new projects.

TOTAL - CABINET FOR HEALTH SERVICES

		2000-01	2001-02
General Fund		1,017,490,800	1,090,892,600
Restricted Funds		412,798,700	410,168,800
Federal Funds	437,500	2,482,198,200	2,583,287,900
TOTAL	437,500	3,912,487,700	4,084,349,300

H. JUSTICE CABINET

47. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2000-01	2001-02
General Fund	7,788,900	7,664,100
Restricted Funds	1,657,400	1,619,000
Federal Funds	13,087,800	13,087,800
Total	22,534,100	22,399,500

Included in the above General Fund appropriation is $1,106,400 in fiscal year 2000-2001 and $1,133,000 in fiscal year 2001-2002 for operation of the State Parole Board.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year to provide free civil legal services for indigents.

Included within the above Restricted Funds appropriation is $330,000 in fiscal year 2000-2001 and $330,000 in fiscal year 2001-2002 to support the Criminal Justice Council. These Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF). Any provisions to the contrary codified in KRS 15.430, 42.190, or 136.392 are suspended.

Included in the above General Fund appropriation is $125,000 in fiscal year 2000-2001 and $125,000 in fiscal year 2001-2002 for the Urban League of Lexington-Fayette County Construction Training Project.

b. State Police

	2000-01	2001-02
General Fund	81,836,200	89,633,100
Restricted Funds	5,431,900	5,274,800
Road Fund	30,000,000	30,000,000
Federal Funds	9,960,600	8,144,700
Total	127,228,700	133,052,600

Included in the above General Fund appropriation is $271,000 in fiscal year 2001-2002 for new debt service to fund the portion of the Unified Criminal Justice Information System related to the State Police database operations.

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2000-01	2001-02
Restricted Funds	31,768,900	33,432,500
Federal Funds	1,190,000	1,190,000
Total	32,958,900	34,622,500

Included in the above appropriation is $19,537,000 in fiscal year 2000-2001 and $19,985,200 in fiscal year 2001-2002 for training incentive payments pursuant to KRS 15.430 and KRS 15.440 from receipts pursuant to KRS 136.392. Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $716,400 in fiscal year 2000-2001 and $733,200 in fiscal year 2001-2002 for an increase in training incentive payments to each participant. The increase equates to $100 per qualified individual in fiscal year 2000-2001 for a total of $3,100 in fiscal year 2000-2001 and $3,100 in fiscal year 2001-2002 for each participant.

Also included in the appropriation above is $3,165,000 for debt service in fiscal year 2000-2001 and $3,165,000 in fiscal year 2001-2002 for bonds previously issued. New debt service in the amount of $777,000 in fiscal year 2001-2002 is appropriated and included above for a new Law Enforcement Physical Training Facility on the campus of Eastern Kentucky University.

Notwithstanding KRS 15.430, 42.190, or 136.392, funds unexpended at the end of fiscal year 1999-2000 and fiscal year 2000-2001 shall not lapse but shall be carried forward into the following fiscal year.

d. Juvenile Justice

	2000-01	2001-02
General Fund	76,638,000	92,788,000
Restricted Funds	16,789,800	18,550,000
Federal Funds	19,812,000	19,312,000
Total	113,239,800	130,650,000

Included in the above General Fund appropriation is $2,925,000 in fiscal year 2001-2002 for debt service for the construction of a secure juvenile detention facility in Fayette County, a combined residential/detention facility in Hardin County, an educational building addition at Woodsbend Youth Development Center in Morgan County, and a 100-bed replacement facility for three existing juvenile treatment centers in Jefferson County.

TOTAL - JUSTICE OPERATIONS

	2000-01	2001-02
General Fund	166,263,100	190,085,200
Restricted Funds	56,648,000	58,904,900
Road Fund	30,000,000	30,000,000
Federal Funds	44,050,400	41,734,500
Total	295,961,500	320,724,600

48. CORRECTIONS

Budget Units

a. Corrections Management

	2000-01	2001-02
General Fund	15,123,400	28,492,700
Restricted Funds	12,679,100	13,241,200
Federal Funds	1,224,400	224,500
Total	29,026,900	41,958,400

Included in the above General Fund appropriation is $12,211,000 in fiscal year 2001-2002 for new debt service related to renovation or construction of correctional facilities.

b. Community Services and Local Facilities

	2000-01	2001-02
General Fund	73,994,600	80,272,300
Restricted Funds	625,000	625,000
Total	74,619,600	80,897,300

c. Adult Correctional Institutions

	2000-01	2001-02
General Fund	182,603,000	193,764,500
Restricted Funds	4,428,800	4,458,600
Federal Funds	150,000	150,000
Total	187,181,800	198,373,100

d. Local Jail Support

	2000-01	2001-02
General Fund	14,918,100	15,276,100

Included in the General Fund appropriation is $909,300 in fiscal year 2000-2001 and $931,100 in fiscal year 2001-2002 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $307,200 in fiscal year 2000-2001 and $314,600 in fiscal year 2001-2002 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2000-01	2001-02
General Fund	286,639,100	317,805,600
Restricted Funds	17,732,900	18,324,800
Federal Funds	1,374,400	374,500
Total	305,746,400	336,504,900

TOTAL - JUSTICE CABINET

	2000-01	2001-02
General Fund	452,902,200	507,890,800

Restricted Funds	73,380,900	77,229,700
Federal Funds	45,424,800	42,109,000
Road Fund	30,000,000	30,000,000
TOTAL	601,707,900	657,229,500

I. LABOR

49. LABOR CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	545,600	558,700
Restricted Funds	5,291,800	5,384,200
Total	5,837,400	5,942,900

b. Workplace Standards

	2000-01	2001-02
General Fund	2,024,800	2,080,700
Restricted Funds	131,541,200	130,275,200
Federal Funds	3,453,000	3,453,000
Total	137,019,000	135,808,900

c. Workers' Claims

	2000-01	2001-02
Restricted Funds	14,942,300	15,806,800

d. Kentucky Occupational Safety and Health Review Commission

	2000-01	2001-02
Restricted Funds	429,800	443,100

TOTAL - LABOR CABINET

	2000-01	2001-02
General Fund	2,570,400	2,639,400
Restricted Funds	152,205,100	151,909,300
Federal Funds	3,453,000	3,453,000
TOTAL	158,228,500	158,001,700

Budget Unit

50. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2000-01	2001-02
General Fund	19,000,000	19,000,000
Restricted Funds	135,957,600	136,075,500
Total	154,957,600	155,075,500

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amounts of $793,600 in fiscal year 2000-2001 and $854,000 in fiscal year 2001-2002 shall be transferred to Mines and Minerals.

TOTAL - LABOR

	2000-01	2001-02
General Fund	21,570,400	21,639,400
Restricted Funds	288,162,700	287,984,800
Federal Funds	3,453,000	3,453,000
TOTAL	313,186,100	313,077,200

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

51. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	9,365,300	9,655,800
Restricted Funds	443,100	426,600
Federal Funds	1,758,000	1,826,500
Total	11,566,400	11,908,900

b. Environmental Protection

	2000-01	2001-02
General Fund	23,430,500	24,230,100
Restricted Funds	20,834,300	21,391,100
Federal Funds	17,807,300	17,904,600
Total	62,072,100	63,525,800

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is $206,000 in fiscal year 2001-2002 in debt service for a $2,000,000 new bond authorization for state-owned dam repairs.

c. Natural Resources

	1999-2000	2000-01	2001-02
General Fund	694,800	14,192,800	15,341,400
Restricted Funds		5,198,000	5,215,100
Federal Funds		4,032,900	3,768,600
Total	694,800	23,423,700	24,325,100

Included in the above General Fund appropriation is $705,000 in fiscal year 2001-2002 for debt service for $5,604,000 in new bond authorizations. This appropriation provides $416,000 for debt service to support Bonds totaling $4,100,000 for the Black Mountain Preservation Project and $289,000 for debt service to support Bonds totaling $1,504,000 for the Forestry Radio Equipment.

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2000-01	2001-02
General Fund	10,263,500	10,754,800
Restricted Funds	6,184,000	6,533,900
Federal Funds	16,245,500	16,719,600
Total	32,693,000	34,008,300

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department, subject to the conditions and procedures of this Act.

e. Abandoned Mine Land Reclamation Projects

	2000-01	2001-02
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	1999-2000	2000-01	2001-02
General Fund	694,800	57,252,100	59,982,100
Restricted Funds		32,659,400	33,566,700

Federal Funds		61,843,700	62,219,300
TOTAL	694,800	151,755,200	155,768,100

Budget Units

52. KENTUCKY RIVER AUTHORITY

	2000-01	2001-02
General Fund	377,900	543,000
Restricted Funds	1,345,600	1,579,900
Total	1,723,500	2,122,900

Included in the above Restricted Funds appropriation is $203,000 in fiscal year 2000-2001 and $406,000 in fiscal year 2001-2002 for debt service for $4,000,000 in previously authorized bonds for the Water Release System and Lock 6 Repairs. General Fund debt service funds of $156,000 is included in fiscal year 2001-2002 to support Bond Funds totaling $1,500,000.

53. ENVIRONMENTAL QUALITY COMMISSION

	2000-01	2001-02
General Fund	267,000	258,200
Restricted Funds	6,600	1,000
Total	273,600	259,200

54. KENTUCKY NATURE PRESERVES COMMISSION

	2000-01	2001-02
General Fund	918,500	931,700
Restricted Funds	338,300	321,700
Federal Funds	25,000	25,000
Total	1,281,800	1,278,400

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1999-2000	2000-01	2001-02
General Fund	694,800	58,815,500	61,715,000
Restricted Funds		34,349,900	35,469,300
Federal Funds		61,868,700	62,244,300
TOTAL	694,800	155,034,100	159,428,600

K. PERSONNEL CABINET

55. PERSONNEL CABINET

Budget Units

a. General Operations

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,430,600	3,920,200
Restricted Funds	4,000,000	10,293,100	10,386,000
Total	11,000,000	13,723,700	14,306,200

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect $5.00 per month per employee eligible for health insurance coverage in the state group for those agencies utilizing the state payroll system and $4.00 per employee eligible for health insurance coverage in the state group utilizing their own payroll system from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program. Members of the state group utilizing the state payroll system will pay $5.00 per month beginning January 1, 2000.

Included in the above General Fund appropriation is $389,000 in fiscal year 2001-2002 for debt service on a new personnel payroll system.

b. Public Employees Deferred Compensation Authority

	2000-01	2001-02
Restricted Funds	4,915,600	5,740,700

c. Workers' Compensation Benefits and Reserve

	2000-01	2001-02

	2000-01	2001-02
Restricted Funds	15,382,700	15,901,500

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,430,600	3,920,200
Restricted Funds	4,000,000	30,591,400	32,028,200
TOTAL	11,000,000	34,022,000	35,948,400

L. POSTSECONDARY EDUCATION

Budget Units

56. COUNCIL ON POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	64,228,800	137,638,400
Restricted Funds	3,785,900	5,380,100
Federal Funds	1,100,000	1,100,000
Total	69,114,700	144,118,500

The General Assembly reaffirms its commitment to the spirit, intent, and goals of the Kentucky Postsecondary Education Improvement Act of 1997. The General Assembly recognizes the continued need to provide improved access to postsecondary education for all of Kentucky's citizens. The General Assembly continues to encourage collaboration among all of the state postsecondary institutions. The General Assembly supports the budget recommendations on the Council on Postsecondary Education.

Included in the above appropriation is $6,564,600 in fiscal year 2000-2001 and $2,626,200 in fiscal year 2001-2002 for the Environmental Program to Stimulate Competitive Research (EPSCoR) program. Notwithstanding the provisions of KRS 45.229, funding for the EPSCoR program in fiscal year 2000-2001 not to exceed $2,000,000 shall continue into fiscal year 2001-2002 for this purpose.

Included in the above General Fund appropriation is $43,655,000 in fiscal year 2000-2001 and $120,730,000 in fiscal year 2001-2002 for the Strategic Investment and Incentive Funding Program as established by the Postsecondary Education Improvement Act of 1997.

The following trust funds and dollar amounts make up the Strategic Investment and Incentive Trust Funding Program for fiscal year 2000-2001 and 2001-2002. Included in the above appropriation is $5,055,000 in fiscal year 2000-01 and $9,380,000 in fiscal year 2001-2002 for the Research Challenge Trust Fund. Included in the above appropriation is $15,700,000 in fiscal year 2001-2002 for the Regional University Excellence Trust Fund. Included in the above appropriation in fiscal year 2001-2002 is $7,500,000 for the Technology Initiative Trust Fund. Included in the above appropriation is $20,900,000 in fiscal year 2001-2002 for the Physical Facilities Trust Fund. Included in the above appropriation is $8,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the Postsecondary Workforce Development Trust Fund. Included in the above appropriation is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 for the Student Financial Aid and Advancement Trust Fund. Included in the above appropriation is $7,000,000 in fiscal year 2000-2001 and $12,000,000 in fiscal year 2001-2002 for the Adult Education and Literacy Trust Fund. Included in the above appropriation is $4,250,000 in fiscal year 2001-2002 for the Science and Technology Trust Fund.

Included in the above appropriation for the Research Challenge Trust Fund is $5,055,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002 for lung cancer research, and $3,300,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program. Notwithstanding the provisions of KRS 164.7917(1)(b) and (c), the guidelines regarding matching requirements and distribution of funding to the University of Kentucky and the University of Louisville shall be made by the Council on Postsecondary Education.

Included in the above appropriation for the Regional University Excellence Trust Fund is $5,700,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program that, notwithstanding the provisions of KRS 164.7919(1)(b) and (c), will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriation for the Regional University Excellence Trust Fund is $10,000,000 in fiscal year 2001-2002 for the Action Agenda Program that shall be allocated among the comprehensive universities as prescribed by KRS 164.7919(1)(b). The Council on Postsecondary Education is encouraged to allocate $4,000,000 of the Action Agenda Program funding to initiatives addressing issues of teacher quality, pre-service training and in-service professional development, as identified by the recommendations of the Teacher Quality Task Force.

Included in the above General Fund appropriation for the Technology Initiative Trust Fund is $3,800,000 in fiscal year 2001-2002 for debt service for the Equipment Replacement Pool authorized in Part II, $1,200,000 in fiscal year 2001-2002 for expansion of Communications Network Infrastructure used by postsecondary education and $1,000,000 in fiscal year 2001-2002 for the Faculty Development Program.

Included in the above appropriation for the Physical Facilities Trust Fund is $3,018,000 in fiscal year 2001-2002 for debt service to support the Capital Renewal and Maintenance Pool authorized in Part II, $10,436,000 in fiscal year 2001-2002 for debt service to support Renovation, Replacement and Infrastructure Projects at various institutions as authorized in Part II, and $7,446,000 in fiscal year 2001-2002 for debt service to support New Construction Projects as authorized in Part II.

Included in the above appropriations for the Student Financial Aid and Advancement Trust Fund is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 to meet the funding requirements of Senate Bill 21 as enacted by the 1998 General Assembly. Notwithstanding the provisions of Senate Bill 21 as enacted by the 1998 General Assembly, funding in excess of the scholarship requirements may be used for the Kentucky National Guard Tuition Assistance Program, the Council on Postsecondary Education Contract Spaces Program, and the Council on Postsecondary Education Public Communication Campaign. Merit scholarship dollars for the Kentucky Educational Excellence Scholarship (KEES) program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 General Assembly as the highest priority use of these funds.

Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $7,000,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program that will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $6,000,000 in fiscal year 2000-2001 and $6,000,000 in fiscal year 2001-2002 for the Workforce Training Program. Funding for the Workforce Training Program shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College System (KCTCS) program offerings. The Council on Postsecondary Education is encouraged to allocate up to $2,000,000 each year of the Workforce Training Program appropriations for high-tech training consistent with the proposed Knowledge Based Economy Initiative. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $2,000,000 in each year to continue implementation of the administrative information software systems necessary for KCTCS to function as an institution in the Kentucky system of postsecondary education.

Appropriations to the Science and Technology Trust Fund are provided to implement the recommendations included in the Kentucky Science and Technology Strategy developed by the Kentucky Science and Technology Corporation for which responsibility is assigned to the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $3,000,000 in fiscal year 2001-2002 to support advanced scientific research at all the universities to be allocated by the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $750,000 in fiscal year 2001-2002 for technology transfer of research into marketable products. Included in the above appropriation for the Science and Technology Trust Fund is $500,000 in fiscal year 2001-2002 for the establishment of regional postsecondary-based corporations to help rural industries access new markets.

Included in the above appropriation for the Science and Technology Trust Fund is $250,000 in fiscal year 2000-2001 that is designated to be used to conduct an entrepreneurial audit, which will be used to develop the Knowledge-Based Economy Initiative embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. Included in the above appropriation for the Science and Technology Trust Fund is $1,000,000 in fiscal year 2000-2001 that is designated to be used to support the rural innovation fund that is part of the Knowledge-Based Economy Initiative.

Included in the above appropriations for the Adult Education and Literacy Trust Fund is $2,000,000 in fiscal year 2000-2001 and $2,000,000 in fiscal year 2001-2002 to support county and regional strategies, statewide initiatives, and research and development activities. Included in the above appropriations for the Adult Education and Literacy Trust Fund is $5,000,000 in fiscal year 2000-2001 and $10,000,000 in fiscal year 2001-2002 for additional services as determined by the statewide strategic agenda to be developed by the Council on Postsecondary Education in collaboration with the Department for Adult Education and Literacy. Funding in the Adult Education and Literacy Trust Fund shall be used to fund the $250 per semester tuition discount scholarships for eligible students as provided in proposed legislation. Included in the above appropriations for the Adult Education and Literacy Trust Fund is $225,000 in fiscal year 2000-2001 and $232,000 in fiscal year 2001-2002 for new staff positions in the Council on Postsecondary Education to fulfill responsibilities assigned in proposed legislation.

57. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2000-01	2001-02
General Fund	50,500,000	50,789,000
Restricted Funds	36,565,300	46,507,900
Federal Funds	1,100,000	1,200,000
Total	88,165,300	98,496,900

Included in the above General Fund appropriation is $1,983,300 in fiscal year 2000-2001 and $2,022,500 in fiscal year 2000-2002 for the Teacher's Scholarship Program. Included in the above Restricted Funds appropriation is $1,000,000 each fiscal year for the Kentucky Higher Education Assistance Authority's Work Study Program.

Included in the above General Fund appropriation is $14,304,000 in fiscal year 2000-2001 and $14,400,000 in fiscal year

2001-2002 for the Kentucky Tuition Grant program.

Included in the above General Fund appropriation is $1,420,000 in fiscal year 2000-2001 and $1,379,500 in fiscal year 2001-2002 for the Osteopathic Medicine Scholarship. Notwithstanding KRS 164.7891, scholarships will be computed in both years based on the average public school tuition cost.

Included in the above Restricted Funds appropriation is $696,000 in fiscal year 2000-2001 and $721,200 in fiscal year 2001-2002 for administrative costs associated with the Kentucky Educational Excellence Scholarship.

The Kentucky Educational Excellence Scholarship (KEES) program is appropriated $16,193,500 in fiscal year 2000-2001 and $24,556,900 in fiscal year 2001-2002 from Restricted Funds. In the 2000-2002 biennium, funds from the Merit Scholarship Trust Fund shall also be used for other programs. The Secretary of Finance shall assure, however, that the KEES program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 Regular Session of the General Assembly as a highest priority use of the funds. In the event that the actual dollars realized are insufficient to fund all of the programs funded through the Merit Scholarship Fund, the Secretary shall determine how the funds shall be allocated among the remaining programs after the KEES obligation has been met with the second highest priority accorded to full funding of the Contract Spaces Program in the Council on Postsecondary Education.

Included in the above Restricted Funds appropriation is $1,736,000 in fiscal year 2000-2001 and $1,972,900 in fiscal year 2001-2002 for the National Guard Tuition program. These funds are derived from the Merit Scholarship program.

Included in the above General Fund appropriation is $1,400,000 in fiscal year 2000-2001 and $1,409,500 in fiscal year 2001-2002, and Federal Funds support totaling $600,000 in fiscal year 2000-2001 and $700,000 in fiscal year 2001-2002 for the Early Childhood Scholarship Program. These General Fund appropriations are derived from the Phase I Tobacco Settlement.

Included in the above General Fund appropriation is $33,376,000 in fiscal year 2000-2001 and $33,600,000 in fiscal year 2001-2002 for the College Access Program.

Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally funded student financial assistance programs.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

Included in the above Restricted Funds appropriation is $906,000 in fiscal year 2001-2002 for debt service for the previously authorized new Kentucky Higher Education Assistance Authority building.

58. EASTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	67,192,100	72,235,200
Restricted Funds	87,345,700	91,149,300
Federal Funds	32,194,100	33,349,800
Total	186,731,900	196,734,300

Included in the above General Fund appropriation is $3,427,800 in fiscal year 2000-2001 and $4,325,200 in fiscal year 2001-2002 for debt service for previously issued bonds.

59. KENTUCKY STATE UNIVERSITY

	2000-01	2001-02
General Fund	21,864,700	22,717,900
Restricted Funds	17,181,800	18,332,300
Federal Funds	12,527,900	12,828,700
Total	51,574,400	53,878,900

Included in the above General Fund appropriation is $2,236,500 in fiscal year 2000-2001 and $2,244,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

60. MOREHEAD STATE UNIVERSITY

	2000-01	2001-02
General Fund	40,017,000	40,500,700
Restricted Funds	39,385,000	41,158,700
Federal Funds	33,664,200	35,973,100
Total	113,066,200	117,632,500

Included in the above General Fund appropriation is $2,138,500 in fiscal year 2000-2001 and $884,200 in fiscal year

2001-2002 for debt service for previously issued bonds.

61. MURRAY STATE UNIVERSITY

	2000-01	2001-02
General Fund	47,514,400	50,537,100
Restricted Funds	52,018,600	53,972,400
Federal Funds	7,782,100	8,137,700
Total	107,315,100	112,647,200

Included in the above General Fund appropriation is $1,163,400 in fiscal year 2000-2001 and $1,886,300 in fiscal year 2001-2002 for debt service for previously issued bonds.

62. NORTHERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	39,730,100	44,114,100
Restricted Funds	57,123,800	60,333,300
Federal Funds	6,457,300	6,457,300
Total	103,311,200	110,904,700

Included in the above General Fund appropriation is $5,033,500 in fiscal year 2000-2001 and $5,043,000 in fiscal year 2001-2002 for debt service for previously issued bonds.

63. UNIVERSITY OF KENTUCKY

	2000-01	2001-02
General Fund	307,750,800	322,429,400
Restricted Funds	764,923,800	786,522,500
Federal Funds	90,943,600	92,677,100
Total	1,163,618,200	1,201,629,500

Included in the above General Fund appropriation is $11,242,200 in fiscal year 2000-2001 and $11,285,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $7,812,700 in fiscal year 2000-2001 and $8,488,000 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Restricted Funds appropriation is $12,458,700 in fiscal year 2000-2001 and $12,944,800 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $4,281,800 in fiscal year 2000-2001 and $4,297,300 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

64. UNIVERSITY OF LOUISVILLE

	2000-01	2001-02
General Fund	172,153,200	179,478,800
Restricted Funds	265,936,700	270,892,800
Federal Funds	28,166,200	28,842,100
Total	466,256,100	479,213,700

Included in the above General Fund appropriation is $11,316,600 in fiscal year 2000-2001 and $11,331,500 in fiscal year 2001-2002 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $16,540,200 in fiscal year 2000-2001 and $17,052,900 in fiscal year 2001-2002 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2001-2002.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

65. WESTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	63,957,000	66,563,300
Restricted Funds	74,472,800	81,219,000
Federal Funds	26,191,200	31,992,000
Total	164,621,000	179,774,300

Included in the above General Fund appropriation is $3,944,100 in fiscal year 2000-2001 and $2,592,600 in fiscal year 2001-2002 for debt service for previously issued bonds.

66. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2000-01	2001-02
General Fund	169,785,700	184,204,900
Restricted Funds	103,788,300	109,093,600
Federal Funds	67,872,800	69,501,700
Total	341,446,800	362,800,200

Included in the above General Fund appropriation is $10,678,100 in fiscal year 2000-2001 and $10,712,900 in fiscal year 2001-2002 for debt service for previously issued bonds.

TOTAL - POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	1,044,693,800	1,171,209,300
Restricted Funds	1,502,527,700	1,564,561,900
Federal Funds	307,999,400	322,059,500
TOTAL	2,855,220,900	3,057,830,700

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

67. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2000-01	2001-02
General Fund	692,500	622,700
Restricted Funds	2,111,800	2,097,100
Federal Funds	400,000	425,900
Total	3,204,300	3,145,700

68. ALCOHOLIC BEVERAGE CONTROL

	1999-00	2000-01	2001-02
General Fund		1,447,700	1,441,800
Restricted Funds	57,200	4,542,900	4,609,400
Federal Funds		532,900	558,400
Total	57,200	6,523,500	6,609,600

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

69. FINANCIAL INSTITUTIONS

	2000-01	2001-02
Restricted Funds	8,841,600	9,075,400

Included in the above appropriation is a transfer of $900,000 in each fiscal year to the General Fund, notwithstanding

KRS 287.485.

70. KENTUCKY RACING COMMISSION

	2000-01	2001-02
General Fund	389,500	422,800
Restricted Funds	14,504,100	14,147,200
Total	14,893,600	14,570,000

71. HOUSING, BUILDINGS AND CONSTRUCTION

	2000-01	2001-02
General Fund	3,631,100	3,804,000
Restricted Funds	31,719,500	32,096,500
Total	35,350,600	35,900,500

Under the provisions of the Firefighters Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters Foundation Program Fund, to be paid to each firefighter in addition to his or her regular salary as prescribed by KRS 95A.250. The supplemental payments per qualified professional firefighter shall increase to $3,100 in fiscal year 2000-2001, which is continued in fiscal year 2001-2002. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended. Notwithstanding KRS 42.190 and 95A.220(2), all funds remaining at the end of fiscal year 1999-2000 and fiscal year 2000-2001 in accounts established pursuant to KRS 95A.220(1) and 95A.262 shall not lapse.

72. INSURANCE

a. General Operations

	2000-01	2001-02
General Fund	17,692,500	21,280,000
Restricted Funds	16,543,200	17,760,300
Total	34,235,700	39,040,300

b. Health Purchasing Alliance

	2000-01	2001-02
Restricted Funds	377,500	377,400
TOTAL - INSURANCE	34,613,200	39,417,700

73. MINES AND MINERALS

	2000-01	2001-02
General Fund	9,762,000	9,913,100
Restricted Funds	1,741,500	1,919,000
Federal Funds	589,500	589,200
Total	12,093,000	12,421,300

Notwithstanding KRS 353.590, the following fee shall be charged: oil gas permit transfer - $25.

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amounts of $793,600 in fiscal year 2000-2001 and $854,000 in fiscal year 2001-2002 shall be transferred to Mines and Minerals.

74. PUBLIC ADVOCACY

	1999-00	2000-01	2001-02
General Fund	745,500	22,380,000	24,821,100
Restricted Funds		2,984,100	2,972,600
Federal Funds		908,400	953,800
Total	745,500	26,272,500	28,747,500

75. PUBLIC SERVICE COMMISSION

	2000-01	2001-02
General Fund	10,636,700	11,009,700
Restricted Funds	24,000	24,000
Federal Funds	215,500	225,500

Total	10,876,200	11,259,200

Included in the above General Fund appropriation is $589,000 in each fiscal year for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

76. SECRETARY

a. General Operations

	2000-01	2001-02
Restricted Funds	2,020,000	2,087,700

b. Petroleum Storage Tank Environmental Assurance Fund

	2000-01	2001-02
Restricted Funds	42,719,000	44,114,800
TOTAL - SECRETARY	44,739,000	46,202,500

77. BOARD OF TAX APPEALS

	2000-01	2001-02
General Fund	459,400	468,300

78. CHARITABLE GAMING

	2000-01	2001-02
Restricted Funds	3,229,700	3,307,900

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1999-00	2000-01	2001-02
General Fund	745,500	67,091,000	73,783,500
Restricted Funds	57,200	131,358,900	134,589,300
Federal Funds		2,646,300	2,752,800
TOTAL	802,700	201,096,200	211,125,600

N. REVENUE

Budget Units

79. REVENUE CABINET

	2000-01	2001-02
General Fund	63,789,700	67,177,200
Restricted Funds	3,800,000	3,581,500
Road Fund	1,385,000	1,418,000
Total	69,328,700	72,176,700

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2000-2002 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2000-2001 and fiscal year 2001-2002. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2000-2001 and 2001-2002 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. Also included in the Revenue Cabinet's Restricted Funds appropriation is $90,000 in fiscal year 2000-2001 and $290,000 in fiscal year 2001-2002 from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

80. PROPERTY VALUATION ADMINISTRATORS

	2000-01	2001-02
General Fund	25,048,200	26,368,800
Restricted Funds	3,240,500	3,271,900

Total	28,288,700	29,640,700

Notwithstanding the provisions of KRS 18A.110 to 18A.355 and KRS 61.510 to 61.705, included in the above Restricted Funds appropriation are funds to allow Property Valuation Administrators and their Deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

TOTAL - REVENUE CABINET

	2000-01	2001-02
General Fund	88,837,900	93,546,000
Restricted Funds	7,040,500	6,853,400
Road Fund	1,385,000	1,418,000
TOTAL	97,263,400	101,817,400

O. TOURISM DEVELOPMENT CABINET

Budget Units

81. OFFICE OF THE SECRETARY

	1999-00	2000-01	2001-02
General Fund		1,529,700	1,873,200
Restricted Funds	3,800		100,000
Total	3,800	1,529,700	1,973,200

Included in the General Fund appropriation is $270,000 in each fiscal year for Outdoor Drama Grants.

Pursuant to passage of enabling legislation, included in the General Fund appropriation is $200,000 in each fiscal year to establish and administer a Certified Retirement Community Program.

82. BREAKS INTERSTATE PARK

	2000-01	2001-02
General Fund	250,000	250,000

An appropriation up to $250,000 in each fiscal year is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any portion not matched by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year.

83. TRAVEL DEVELOPMENT

	1999-00	2000-01	2001-02
General Fund		7,237,300	7,427,000
Restricted Funds	20,600	4,000	4,000
Federal Funds	34,100		
Total	54,700	7,241,300	7,431,000

Included in the General Fund appropriation is $2,719,000 in fiscal year 2000-2001 and $2,784,000 in fiscal year 2001-2002 for the Comprehensive Advertising Contract and $800,000 in each fiscal year for the Local and Regional Matching Funds Program.

84. PARKS

	1999-00	2000-01	2001-02
General Fund		27,303,800	28,486,100
Restricted Funds	1,397,500	48,062,500	49,491,900
Total	1,397,500	75,366,300	77,978,000

Included in the above General Fund appropriation is $56,000 in fiscal year 2001-2002 for debt service.

Included in the above General Fund appropriation is $200,000 in fiscal year 2000-2001 for upgrades at White Hall State Historic Site and $10,000 in fiscal year 2000-2001 to preserve, fence, and advertise the Jenny Wiley burial site.

85. KENTUCKY HORSE PARK

	2000-01	2001-02
General Fund	1,378,000	1,680,700
Restricted Funds	4,917,000	4,960,100
Total	6,295,000	6,640,800

Included in the above General Fund appropriation is $43,000 in fiscal year 2001-2002 for debt service.

Included in the above General Fund appropriation is $12,000 each fiscal year to support settlement on Lease agreement.

86. KENTUCKY STATE FAIR BOARD

	2000-01	2001-02
General Fund	407,000	407,000
Restricted Funds	27,952,200	28,972,500
Total	28,359,200	29,379,500

Included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 55.

Included in the General Fund appropriation is $407,000 in each year of the biennium for the North American International Livestock Exposition.

87. FISH AND WILDLIFE RESOURCES

	2000-01	2001-02
Restricted Funds	25,250,500	26,015,600
Federal Funds	7,000,000	7,000,000
Total	32,250,500	33,015,600

TOTAL-TOURISM DEVELOPMENT CABINET

	1999-00	2000-01	2001-02
General Fund		38,105,800	40,124,000
Restricted Funds	1,421,900	106,186,200	109,544,100
Federal Funds	34,100	7,000,000	7,000,000
TOTAL	1,456,000	151,292,000	156,668,100

P. TRANSPORTATION CABINET

88. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2000-01	2001-02
Restricted Funds	11,631,200	11,632,200
Federal Funds	209,000	209,000
Total	11,840,200	11,841,200

Notwithstanding KRS 183.525(5), the Restricted Fund appropriation above includes operational costs of the program.

b. Revenue Sharing

	2000-01	2001-02
Road Fund	217,866,000	222,637,800

1. Included in the above Road Fund appropriation is $82,403,500 in fiscal year 2000-2001 and $84,215,200 in fiscal year 2001-2002 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2000-2001 and $38,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $99,965,000 in fiscal year 2000-2001 and $102,162,800 in fiscal year 2001-2002 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2000-2001 and $46,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $34,672,500 in fiscal year 2000-2001 and $35,434,800 in fiscal year 2001-2002 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2000-2001 and $16,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	2000-01	2001-02
General Fund	75,300	78,100

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	2000-01	2001-02
General Fund	5,047,500	5,199,100
Restricted Funds	829,600	858,300
Federal Funds	7,740,000	8,044,000
Total	13,617,100	14,101,400

Included in the above General Fund appropriation is $2,750,000 in fiscal year 2000-2001 and $3,000,000 in fiscal year 2001-2002 for nonpublic school transportation.

e. Highways

	2000-01	2001-02
Restricted Funds	61,224,000	62,494,400
Federal Funds	486,500,000	495,300,000
Road Fund	691,578,000	793,112,100
Total	1,239,302,000	1,350,906,500

1. Included in the above Road Fund appropriation is $345,531,300 in fiscal year 2000-2001 and $437,586,800 in fiscal year 2001-2002 for the State Funded Construction Program.

Included in the State Funded Construction Program is $64,500,000 in fiscal year 2000-2001 and $66,000,000 in fiscal year 2001-2002 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $244,531,300 in fiscal year 2000-2001 and $334,086,800 in fiscal year 2001-2002 from the Road Fund for state construction projects in the 2000-2002 Biennial Highway Construction Program.

2. Projects in the enacted 1998-2000 Biennial Highway Construction Plan are so listed in order to continue their current authorization into the 2000-2002 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $36,000,000 in fiscal year 2000-2001 and $37,000,000 in fiscal year 2001-2002 for the Highway Construction Contingency Account.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2000-2001 and $290,000 in fiscal year 2001-2002 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

f. Vehicle Regulation

	2000-01	2001-02
Restricted Funds	2,925,000	2,977,400
Federal Funds	2,225,000	2,225,000
Road Fund	29,926,300	31,649,300
Total	35,076,300	36,851,700

g. Debt Service

	2000-01	2001-02
Road Fund	167,275,700	169,854,300

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2000-2001 and $620,600 in fiscal year 2001-2002 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $36,066,600 in fiscal year 2000-2001 and $12,350,400 in fiscal year 2001-2002 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $130,588,500 in fiscal year 2000-2001 and $156,883,300 in fiscal year 2001-2002 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2000-2002 biennium.

h. General Administration and Support

	2000-01	2001-02
Restricted Funds	23,953,400	22,819,200
Road Fund	66,916,800	71,583,100
Total	90,870,200	94,402,300

Included in the above Road Fund appropriation is $6,852,000 in fiscal year 2000-2001 and $9,691,000 in fiscal year 2001-2002 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2001, shall not lapse and shall carry forward to fiscal year 2001-2002 and remain available throughout the 2000-2002 biennium.

TOTAL - TRANSPORTATION CABINET

	2000-01	2001-02
General Fund	5,122,800	5,277,200
Restricted Funds	100,563,200	100,781,500
Federal Funds	496,674,000	505,778,000
Road Fund	1,173,562,800	1,288,836,600
TOTAL	1,775,922,800	1,900,673,300

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

89. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1999-00	2000-01	2001-02
General Fund		2,668,700	2,694,700
Restricted Funds	400,000	6,102,300	6,327,700
Federal Funds		614,000	288,200
Total	400,000	9,385,000	9,310,600

Included in the above General Fund appropriation is $700,000 in each fiscal year for operation of the School-to-Careers system. The Cabinet will have sole responsibility for the initiative, notwithstanding any provisions of KRS 151B.250, KRS 151B.255, KRS 158.760 and KRS 158.7603 to the contrary.

90. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	31,200	32,000

91. TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	20,090,100	21,325,200
Restricted Funds	17,647,700	18,346,300
Federal Funds	10,338,400	10,369,200
Total	48,076,200	50,040,700

Included in the above General Fund appropriation is $1,807,500 in each fiscal year for equipment procurement.

Included in the above is $70,000 each fiscal year for a Secondary School Technology Program in Morgan County. Also included in the above is $70,000 each fiscal year for a Middle School Technology Program in Montgomery County.

92. ADULT EDUCATION AND LITERACY

	2000-01	2001-02

General Fund	11,005,200	11,360,300
Restricted Funds	83,300	74,300
Federal Funds	11,096,900	10,520,400
Total	22,185,400	21,955,000

93. VOCATIONAL REHABILITATION

	1999-00	2000-01	2001-02
General Fund		10,729,800	11,160,100
Restricted Funds	500,000	2,847,200	3,116,900
Federal Funds		38,341,700	39,242,200
Total	500,000	51,918,700	53,519,200

94. DEPARTMENT FOR THE BLIND

	2000-01	2001-02
General Fund	2,069,600	1,739,100
Restricted Funds	1,475,700	1,436,200
Federal Funds	7,231,900	7,502,400
Total	10,777,200	10,677,700

95. STATE BOARD FOR PROPRIETARY EDUCATION

	2000-01	2001-02
Restricted Funds	116,100	119,400

96. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2000-01	2001-02
General Fund	4,639,200	4,750,600

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

97. TRAINING AND REEMPLOYMENT

	1999-00	2000-01	2001-02
Restricted Funds	50,000	67,500	51,500
Federal Funds		62,768,200	58,762,000
Total	50,000	62,835,700	58,813,500

98. EMPLOYMENT SERVICES

	2000-01	2001-02
General Fund	613,500	628,200
Restricted Funds	14,544,700	11,832,000
Federal Funds	304,227,200	304,472,900
Total	319,385,400	316,933,100

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, the sum of $1,000,000 during the 2000-2002 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1999-00	2000-01	2001-02
General Fund		51,847,300	53,690,200
Restricted Funds	950,000	42,884,500	41,304,300
Federal Funds		434,618,300	431,157,300
TOTAL	950,000	529,350,100	526,151,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2000-2002 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2000-01	2001-02
1. Treasury Department		
a. Laser Check Printers - Lease		
Capital Construction Surplus	248,000	248,000
2. Attorney General		
a. Capital Complex East Franklin County - Lease		
3. Unified Prosecutorial System		
a. Jefferson County - Lease		
4. Governor's Office for Technology		

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

Budget Unit	2000-01	2001-02
a. Statewide Microwave Network Maintenance		
Bond Funds	2,500,000	
b. Unified Criminal Justice System		
Bond Funds	4,585,000	
c. Maintaining the Kentucky Spatial Data Infrastructure		
Bond Funds	700,000	
Federal Funds	649,600	
Other Funds	100,000	
Total	1,449,600	
d. Kentucky Information Highway Upgrade/Expansion		
Restricted Funds	3,500,000	
e. Enterprise Server Complex Upgrade		
Restricted Funds	2,985,000	
f. Disk Storage Upgrade		
Restricted Funds	887,000	
g. Enterprise Server Complex Upgrade		
Restricted Funds	1,755,000	
h. Tape Storage Upgrade		
Restricted Funds	645,000	
i. Disk Storage Upgrade		
Restricted Funds	887,000	
j. Enterprise High-Speed Printer Replacement		
Restricted Funds	645,000	
k. Tape Storage Upgrade		
Restricted Funds	645,000	
l. Franklin County - Lease (100 Fair Oaks)		
5. Department of Agriculture		
a. Large Truck Scale Unit		
Restricted Funds	210,000	
b. Franklin County - Department of Agriculture Building Lease		

	c.	Rural Development Fund		
		Bond Funds	25,000,000	
6.		Department of Military Affairs		
	a.	Environmental Pool		
		Bond Funds	174,000	
		Federal Funds	635,000	
		Total	809,000	
	b.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	200,000	700,000
	c.	Maintenance Pool		
		Investment Income	950,000	1,000,000
	d.	Aircraft Maintenance Pool		
		Investment Income	400,000	400,000
	e.	Runway/Parallel Taxiway Pavement/Apron Rehabilitation		
		Federal Funds	1,265,000	
		Capital Construction Surplus	141,000	
		Total	1,406,000	
7.		Governor's Office of Veterans' Affairs		
	a.	Eastern Kentucky Veterans' Center - Additional		
		Bond Funds	328,000	
		Federal Funds	1,056,000	
		Total	1,384,000	
	b.	Western Kentucky Veterans' Center - Additional		
		Bond Funds	229,000	
		Federal Funds	502,000	
		Total	731,000	
	c.	Western Kentucky Veterans' Cemetery		
		Federal Funds	2,725,000	
		Capital Construction Surplus	100,000	
		Total	2,825,000	
8.		Kentucky Retirement Systems		
	a.	Franklin County - Lease (Perimeter Park West Number One)		
	b.	Franklin County - Lease (Perimeter Park West Number Two)		
9.		Local Government		
			2000-2001	2001-2002
	a.	Renaissance Kentucky		
		Bond Funds	6,000,000	
	b.	Grant County Animal Shelter		
		General Fund	50,000	
	c.	City of Pleasureville Fire Department		
		General Fund	12,000	
	d.	New Liberty Fire Department		
		General Fund		10,000
	e.	Owen County Volunteer Fire Department		
		General Fund		10,000
	f.	City of Ravenna Fire Department Building		
		General Fund		20,000

g.	City of Frankfort Log Cabin Restoration Project		
	General Fund		50,000
h.	Graves County DAV #106 Building Renovation and		
	Property Acquisition		
	General Fund		25,000
i.	Corbin Regional Animal Shelter		
	General Fund	100,000	
j.	City of Irvine Fire Department Aerial Truck		
	General Fund		65,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit		2000-01	2001-02
1.	Economic Development Projects		
a.	Economic Development Bond Pool		
	Reauthorization ($32,203,000 - Bond Funds)		
	Bond Funds - Additional	4,000,000	

Included in the above appropriation are the following projects: Grayson Lake-Golf Course Development, $4,500,000; Southeast Kentucky Center for Business Technology and Innovation, Madison County, $4,000,000; South Central Kentucky Technology Center, Warren County, $4,000,000; Northeast Kentucky Regional Industrial Park Authority, East Park Industrial, Technology and Innovation Training Center, Boyd County, $2,000,000; Tourism Development Loan Program, $1,500,000; City of Prestonsburg sidewalks and mountain top project improvements, $1,000,000; Morgan County regional water lines, $1,000,000; and Blue Licks Lodge-Food service expansions and Daniel Boone Cabin Preservation, $750,000.

b.	High Tech Construction Pool		
	Restricted Funds	20,000,000	
c.	High Tech Investment Pool		
	Restricted Funds	20,000,000	
d.	Economic Opportunity Zones		
	Bond Funds	2,000,000	

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

C. EDUCATION

Budget Unit		2000-01	2001-02
1.	Department of Education		
a.	Kentucky School for the Deaf Fire Safety/Dorm Renovation		
	Bond Funds	1,250,000	
b.	Kentucky School for the Deaf Steam Line Replacement		
	Emergency Repair, Maintenance and		
	Replacement Funds	1,700,000	
c.	Maintenance Pool		
	Investment Income	292,000	785,000
d.	Kentucky School for the Blind Roofing and Weatherproofing		
	Bond Funds	1,122,000	
e.	Kentucky School for the Deaf Roof Replacements		
	Bond Funds	850,000	
f.	Educational Professional Standards Board System Infrastructure/		
	Database System		
	Bond Funds	2,900,000	
g.	Educational Professional Standards Board System Infrastructure		
	Bond Funds	2,000,000	
h.	Jackson County Area Vocational School		
	Reauthorization --		

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2000-01	2001-02
1. Libraries and Archives		
a. Document Management Digitization System		
Bond Funds	1,188,000	
b. Feasibility Study - New Archives Building		
Bond Funds	200,000	
2. Kentucky Educational Television		
a. DTV-HDTV Broadcast Transmission		
Bond Funds	12,700,000	
b. NTSC Transmitters		
Bond Funds	2,800,000	
3. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	150,000	150,000
4. Teachers' Retirement System		
a. Imaging System		
Reauthorization ($700,000 - Restricted Funds)		
5. School Facilities Construction Commission		
Bond Funds	92,000,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2000-01	2001-02
1. Administration Services		
a. Maintenance Pool		
Investment Income	300,000	525,000
b. L & N Building - Elevator Upgrade		
Deferred Maintenance	1,000,000	
c. Owensboro Office Building - HVAC and Interior Renovation		
Deferred Maintenance	1,500,000	
d. Children's Advocacy Centers		
Bond Funds	640,000	
e. Disability Determinations Client System Upgrade		
Federal Funds	300,000	
f. Various Leases - Eleven Counties		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2000-01	2001-02
1. General Administration		
a. Kentucky Infrastructure Authority - Wastewater Revolving Loan and Grant Fund-A (Wastewater Fund-A1; Water Supply Fund-A2)		
Reauthorization ($8,542,000 - Bond Funds)		
Bond Funds - Additional	7,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA - Water Resources Development

Bond Funds 50,000,000

The Kentucky Infrastructure Authority may use funds available in the Infrastructure Revolving Fund to develop a program for construction of water projects. The Kentucky Infrastructure Authority shall establish project prioritization criteria which shall include consideration of whether the applicant has received written notice of a water system deficiency from the Natural Resources and Environmental Cabinet. All water projects to be funded in accordance with the above shall only be expended pursuant to the policies and procedures of the Kentucky Infrastructure Authority.

c. Kentucky Infrastructure Authority - Fund F Loans - Drinking Water

Reauthorization ($5,000,000 - Bond Funds)

Bond Funds 6,000,000

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

d. Red Fox Golf Course

Reauthorization ($5,400,000 - Multiple Funds)

e. Pike County Civic Center

Reauthorization ($12,500,000 - Multiple Funds)

f. New Office Building - Alternative Construction

g. Meade County Waterline Extension

Reauthorization ($2,500,000 - Restricted Funds)

h. Hindman Sewer Infrastructure

Reauthorization ($3,000,000 - Restricted Funds)

i. Midway Wastewater Treatment Plant

Reauthorization ($3,500,000 - Restricted Funds)

j. Richmond Sewer Infrastructure

Reauthorization ($4,000,000 - Restricted Funds)

k. West Louisville Environmental Justice/Air Pollution Project

Reauthorization ($300,000 - General Fund)

l. Estill County Board of Education Project

Reauthorization ($75,000 - General Fund)

m. Kentucky Infrastructure Authority -
Fund B Waterline/Sewer Grant Program

Restricted Funds 775,000

Notwithstanding KRS 224A.112, the Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance to the above Fund B projects, in the form of grants, totaling $650,000 to the Green River State Park-Horton Camp Infrastructure, $75,000 to the Fleming County Water Commission for the Multi-County Water Study; and $50,000 to the Fleming County Fiscal Court for the "201" Sewer Planning Study.

2. Department for Administration

For the major equipment purchases displayed in this section as Restricted Funds supported projects, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Two High Speed Inserters

Restricted Funds 600,000

b. Bar Code Printing and Sorting Equipment

Reauthorization ($390,700 - Restricted Funds)

c. Network Publishing Equipment

Restricted Funds 581,000

d. Franklin County - Lease (Postal Services)

e. Franklin County - Lease (300 Myrtle Avenue)

3. Department for Facilities Management

a.	Kentucky State Capitol Complex - Historic Restoration Design Infrastructure		
	Bond Funds	19,125,000	
b.	Kentucky History Center Area Restoration		
	Bond Funds	4,000,000	
c.	Sprinkler Recall/Replacement		
	Bond Funds	1,500,000	
d.	Statewide Property Acquisition/Demolition Fund		
	Bond Funds	5,000,000	
e.	Elevator/Escalator Modernization - State Buildings		
	Deferred Maintenance	2,000,000	
f.	Federally Mandated CFC Phaseout		
	Deferred Maintenance	1,000,000	
g.	ADA Compliance		
	Deferred Maintenance	1,000,000	
h.	Maintenance Pool - Statewide Deferred		
	Investment Income	1,000,000	
i.	Capital Construction and Equipment Purchase Contingency Fund		
	Investment Income	2,000,000	
j.	Emergency Repair, Maintenance, and Replacement Fund		
	Investment Income	714,000	
k.	Maintenance Pool		
	Investment Income	3,375,000	3,875,000
	Restricted Funds	1,400,000	300,000
	Total	4,775,000	4,175,000
l.	Transit Authority of River City - Light Rail Project		
	General Fund	820,000	820,000
4.	Lottery Corporation		
a.	Contingency on Property		
	Other Funds	2,500,000	
b.	Potential Buyout of On-Line Gaming System		
	Other Funds	18,450,000	
c.	Probability Games Implementation		
	Other Funds	5,643,000	
d.	Instant Ticket Machines		
	Other Funds	2,125,000	
e.	Pull Tab Ticket Vending Machines		
	Other Funds	4,473,000	
f.	Data Processing, Telecommunications and Related Equipment		
	Other Funds	3,750,000	
g.	Upgrade to Distributed Processing Model		
	Other Funds	150,000	

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2000-01	2001-02
1. Department for Mental Health/Mental Retardation Services		
a. New Power Plant - Western State Hospital		
Bond Funds	3,880,000	
b. Boiler Replacement - Central State Hospital		
Bond Funds	2,457,000	
c. Miscellaneous Roof Replacement/Repair Pool		
Bond Funds	500,000	
d. Maintenance Pool		
Investment Income	700,000	1,840,000
e. Water Piping Replacement System - Eastern State Hospital		
Emergency Repair, Maintenance and Replacement Fund	850,000	
f. Statewide Chiller Replacement		
Emergency Repair, Maintenance and Replacement Fund	839,000	
g. Franklin County - Lease (Fair Oaks Building)		
2. Administrative Support		
a. Statewide Public Health System		
Bond Funds	2,000,000	
b. Children's Health Information System		
Capital Construction Surplus	1,200,000	

H. JUSTICE CABINET

Budget Unit	2000-01	2001-02
1. Department of State Police		
a. Maintenance Pool		
Investment Income	200,000	250,000
b. Unified Criminal Justice Information		
Bond Funds	1,402,000	
c. New Ion Coupled Plasma/Mass Spec. Trace Unit		
Capital Construction Surplus	330,000	
d. Facial Recognition Pilot Project - Unified Criminal Justice Information System		
Restricted Funds	150,300	
Federal Funds	451,000	
Total	601,300	
e. Mugshot Expansion - Sex Offender Registry System		
Federal Funds	519,000	
2. Department of Juvenile Justice		
a. Maintenance Pool		
Investment Income	400,000	500,000
b. Secure Juvenile Detention Center - Fayette County		
Bond Funds	6,700,000	
c. Combined Residential/Detention Facility - Hardin County		
Bond Funds	11,211,000	
d. Woodsbend Youth Development Center Education Addition - Morgan County		
Bond Funds	1,101,000	

	e.	75-Bed Replacement Facility - Jefferson County		
		Bond Funds	10,000,000	
	f.	Morehead Youth Development Center Cottage Renovation		
		Restricted Funds	145,000	
		Federal Funds	1,300,000	
		Total	1,445,000	
	g.	Mayfield Youth Development Center Education Addition		
		Restricted Funds	110,000	
		Federal Funds	990,000	
		Total	1,100,000	
	h.	Owensboro Treatment Center Education Addition		
		Restricted Funds	110,000	
		Federal Funds	990,000	
		Total	1,100,000	
	i.	Green River Youth Development Center Education Addition - Butler County		
		Restricted Funds	60,000	
		Federal Funds	540,000	
		Total	600,000	
	j.	Secure Juvenile Detention Facility - Boyd County		
		Reauthorization ($5,357,000 - Bond Funds)		
		Federal Funds - Additional	700,000	
3.		Department of Criminal Justice Training		
	a.	Law Enforcement Basic Training Complex		
		Additional Funding		
		Agency Bond Funds	7,000,000	
4.		Department of Corrections		
	a.	Maintenance Pool		
		Investment Income	1,400,000	2,000,000
	b.	Kentucky State Reformatory - Exterior Stabilization of Administration Building		
		Emergency Repair, Maintenance and Replacement Fund	1,600,000	
	c.	Blackburn Correction Complex - Roof Replacement		
		Bond Funds	1,400,000	
	d.	New Medium Security Prison - Elliott County		
		Bond Funds	90,408,000	

Funds are appropriated in the above appropriation to facilitate connecting the prison to the upgraded wastewater treatment plant in the City of Sandy Hook.

e.	New Medium Security Prison - Design and Site Acquisition - Knott County		
	Bond Funds	17,200,000	
f.	Kentucky State Reformatory - New Gas Fired Boiler Plant		
	Bond Funds	7,000,000	
g.	Kentucky Correctional Institution for Women - Phase II Expansion -		

Design only		
Bond Funds	900,000	
h. Western Kentucky Correctional Complex - 44-Bed Segregation Unit		
Bond Funds	4,300,000	
i. Corr/Optical Imaging		
Restricted Funds	560,000	536,000
j. Kentucky State Reformatory - Two Transportation Buses		
Restricted Funds	620,000	
k. Correctional Industries Warehouse/Office Complex		
Reauthorization		
l. Jefferson County - Lease (Probation and Parole)		

I. LABOR CABINET

Budget Unit	2000-01	2001-02
1. General Administration and Support		
a. Franklin County - Lease		
2. Workers' Claims		
a. Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2000-01	2001-02
1. General Administration and Support		
a. Kentucky Heritage Land Conservation Fund -		
Reauthorization		
Restricted Funds - Additional	5,160,000	5,160,000
b. Maintenance Pool		
Investment Income	100,000	115,000
2. Department for Environmental Protection		
a. State-Owned Dam Repair -		
Reauthorization		
Bond Funds - Additional	2,000,000	
b. State-Funded Leaking Underground Storage Tanks -		
Reauthorization		
Restricted Funds - Additional	500,000	500,000
c. Hazardous Waste Management Fund -		
Reauthorization		
Restricted Funds - Additional	2,100,000	2,100,000
d. Franklin County - Lease (Ash Properties)		
e. Franklin County - Lease (Air Quality)		
f. Maxey Flats Replacement Structures		
Emergency, Repair, Maintenance and Replacement Fund	390,000	
3. Department for Natural Resources		
a. Black Mountain Preservation Project		
Bond Funds	4,100,000	
b. Forestry Radio Equipment		
Bond Funds	1,504,000	
4. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease (Hudson Hollow)		
5. Kentucky River Authority		

	a. Locks and Dams - Acquisition		
	Reauthorization		
	b. Kentucky River Parks		
	Reauthorization		
	c. Kentucky River Water Release System and Lock 6 Repairs -		
	Reauthorization ($4,000,000 - Agency Bonds)		
	d. Kentucky River Water Storage Enhancements		
	Restricted Funds	2,270,000	
	Bond Funds	1,500,000	
	Total	3,770,000	
6.	Kentucky Nature Preserves Commission		
	a. Nature Preserves Acquisition Fund -		
	Reauthorization		
	Other Funds - Additional	300,000	300,000
	Total	300,000	300,000

K. PERSONNEL CABINET

Budget Unit		2000-01	2001-02
1.	Personnel		
	a. Franklin County - Lease		
	b. On-line Access to Employee Records		
	Bond Funds	550,000	
	c. New Personnel Payroll System		
	Bond Funds	1,450,000	

L. POSTSECONDARY EDUCATION

Budget Unit		2000-01	2001-02
1.	Council on Postsecondary Education		
	a. Capital Renewal & Maintenance Pool		
	Bond Funds	30,000,000	
	b. Agency Bond Pool		
	Agency Bonds	35,000,000	
	c. Equipment Replacement Pool		
	Bond Funds	20,000,000	
2.	Kentucky Higher Education Assistance Authority		
	a. Kentucky Higher Education Assistance Authority Office Building		
	Reauthorization		
	b. Information Technology Systems Upgrade		
	Restricted Funds	650,000	
	c. Imaging System Upgrade		
	Restricted Funds		125,000
	d. Franklin County - Lease		
3.	Eastern Kentucky University		
	a. Cammack Building		
	Bond Funds	5,000,000	
	b. Minor Projects Maintenance		
	Restricted Funds	6,000,000	
	c. E & G Life Safety Bugle Elevator		

		Restricted Funds	750,000	
	d.	Student Housing Fire Safety		
		Restricted Funds	2,000,000	
	e.	Property Acquisition		
		Restricted Funds	3,000,000	
	f.	Dormitory Renovation, Combs Hall		
		Restricted Funds	5,000,000	
	g.	Greek Row		
		Restricted Funds	4,000,000	
	h.	Watts Property (Elmwood) Renovation		
		Restricted Funds	2,000,000	
	i.	Health Education Center - Phase I		
		Bond Funds	7,000,000	
	j.	Fourier Transformer Nuclear Magnetic Resonance Spectrometer		
		Restricted Funds	135,000	
	k.	Electronic Security System for Law Library		
		Restricted Funds	110,000	
	l.	Minor Projects Equipment		
		Restricted Funds	2,500,000	2,500,000
4.	Kentucky State University			
	a.	Hathaway Hall Renovation		
		Bond Funds	3,796,000	
	b.	Pedestrian Mall		
		Restricted Funds	771,000	
	c.	Young Hall		
		Restricted Funds	3,672,000	
	d.	Chillier Additions		
		Restricted Funds		2,254,200
	e.	Guaranteed Energy Savings Project		
		Restricted Funds		2,500,000
	f.	Capital Renewal Projects		
		Restricted Funds		1,000,000
	g.	Cooperative Extension Expansion Projects		
		Federal Funds	995,000	497,500
	h.	Roof Repair and Replacement Project		
		Restricted Funds		600,000
	i.	Carver Hall Renovation		
		Bond Funds	5,000,000	
	j.	Aquaculture Classroom and Lab Facility		
		Federal Funds	650,000	
	k.	University Motor Coaches		
		Restricted Funds	800,000	
5.	Morehead State University			
	a.	Americans with Disabilities Act Compliance - E & G		
		Restricted Funds	901,500	891,500
	b.	Americans with Disabilities Act Compliance - Aux.		
		Restricted Funds	785,000	775,000
	c.	1990 Clean Air Act Amendment Compliance		

	Restricted Funds	1,100,000	
d.	Life Safety: Claypool-Young Art Building		
	Restricted Funds	420,000	
e.	Capital Renewal - E & G Facilities		
	Restricted Funds	2,150,100	2,149,900
f.	Life Safety: Auxiliary Facilities		
	Restricted Funds	2,030,000	
g.	Land Acquisitions Related to Campus Master Plan		
	Restricted Funds	1,337,000	
h.	Student Center Renovation & Addition - Phase 1		
	Bond Funds	10,000,000	
i.	Artificial Turf Replacement		
	Restricted Funds	1,000,000	
j.	Central Campus Reconstruction		
	Restricted Funds	650,000	
k.	Construction of Family Housing Complexes		
	Restricted Funds	2,000,000	2,000,000
l.	Capital Renewal - Auxiliary Facilities		
	Restricted Funds	1,150,000	1,150,000
m.	Guaranteed Energy Savings		
	Restricted Funds	2,000,000	
n.	Life Safety: E & G Facilities		
	Restricted Funds	720,000	
o.	Radiological Technology Initiatives		
	Restricted Funds	859,000	
p.	Instructional and Support Equipment		
	Restricted Funds	1,434,100	
q.	Tour Bus		
	Restricted Funds	330,000	
r.	Nuclear Magnetic Resonance Apparatus		
	Restricted Funds	210,000	
s.	Instructional Technology Initiatives		
	Restricted Funds	2,009,600	
t.	HPLC-Mass Spectrometer		
	Restricted Funds	140,000	
u.	Microcomputer/LANs/Peripherals-Instructional		
	Restricted Funds	2,000,000	
v.	Library Automation & Inf. Support Initiatives		
	Restricted Funds	920,000	
w.	Admin. & Office Systems Support Initiatives		
	Restricted Funds	1,300,000	
x.	Networking/Infrastructure Initiatives		
	Restricted Funds	2,180,000	
y.	Telecommunications Systems		
	Restricted Funds	2,000,000	
6.	Murray State University		
a.	Woods Academic/Student Services Building		
	Restricted Funds	2,000,000	

b.	Electrical Distribution Upgrade		
	Restricted Funds	3,330,000	
c.	Replace High Voltage Feeder		
	Restricted Funds	1,141,000	
d.	National Scouting Museum, BAs Phase III		
	Reauthorization		
e.	Replace Clark Hall		
	Restricted Funds	8,000,000	
f.	Replace Central Plant Boiler		
	Restricted Funds	666,000	
g.	Replace Physical Plant Electrical Substation		
	Restricted Funds	796,000	
h.	Replace Campus Telephone Cable		
	Restricted Funds	1,708,000	
i.	Asbestos Abatement: E & G Pool		
	Restricted Funds	272,500	
j.	CFC Compliance: E & G Chillers Replacement		
	Restricted Funds	585,000	
k.	Pogue Electric and HVAC Renovation		
	Restricted Funds	750,000	
l.	Central Plant - Add Chiller		
	Restricted Funds	630,000	
m.	New Science Building		
	Bond Funds	13,000,000	
n.	Land Acquisition Pool		
	Restricted Funds	500,000	
o.	Guaranteed Energy Savings Project		
	Restricted Funds	2,000,000	
p.	Upgrade Highway 121 Electrical Substation		
	Restricted Funds	1,000,000	
q.	Price Doyle HVAC Replacement & Energy Retrofit		
	Restricted Funds	750,000	
r.	Capital Renewal: E & G Pool < $400,000		
	Restricted Funds	2,705,000	
s.	Capital Renewal: H & D Pool < $400,000		
	Restricted Funds	195,000	
t.	Winslow Cafeteria - Replacement Mechanical Equipment		
	Restricted Funds		500,000
u.	Elizabeth College - Renovate HVAC System		
	Restricted Funds	1,200,000	
v.	Heater College - Renovate HVAC System		
	Restricted Funds	800,000	
w.	White College - Renovate HVAC System		
	Restricted Funds	1,000,000	
x.	White College - Replace Domestic Water Piping		
	Restricted Funds	500,000	
y.	Regents College - Replace Domestic Water Piping		
	Restricted Funds	500,000	

z.	Regents College - Renovate HVAC System		
	Restricted Funds	1,000,000	
aa.	Applied Science - Electrical Upgrade		
	Restricted Funds	850,000	
ab.	Wells Hall - Electrical Upgrade		
	Restricted Funds	600,000	
ac.	Sparks Hall - Electrical Upgrade		
	Restricted Funds	952,000	
ad.	Sparks Hall - Renovate HVAC System		
	Restricted Funds	500,000	
ae.	General Services - Renovate HVAC System		
	Restricted Funds	500,000	
af.	Special Education Bldg. - Renovate HVAC System		
	Restricted Funds	500,000	
ag.	Deferred Maintenance: E & G Pool		
	Restricted Funds	864,000	
ah.	Deferred Maintenance: H & D Pool		
	Restricted Funds	930,000	
ai.	Life Safety: E & G Pool		
	Restricted Funds	852,000	
aj.	Life Safety: H & D Pool		
	Restricted Funds	40,000	
ak.	ADA Compliance: Arch Barrier E & G Pool		
	Restricted Funds	2,092,000	
al.	ADA Compliance: Elev. Ctrls./Modify E & G		
	Restricted Funds	1,013,000	
am.	ADA Compliance: Arch Barriers H & D Pool		
	Restricted Funds	175,000	300,000
an.	Asbestos Abatement: H & D Pool		
	Restricted Funds	321,000	395,000
ao.	E & G Projects Less Than $400,000		
	Restricted Funds	792,000	
ap.	Stereo Lithograph		
	Restricted Funds	500,000	
aq.	Recording/Playback Lab & Special Instrument Repl.		
	Restricted Funds		188,000
ar.	Replace Home Economics Appliances, etc.		
	Restricted Funds		120,000
as.	Optics Lab Equipment		
	Federal Funds		85,000
	Restricted Funds		85,000
	Total		170,000
at.	Dark Room Scanner		
	Restricted Funds		120,000
au.	Materials Testing Machine		
	Restricted Funds	240,000	
av.	Campus Network Distribution System		
	Restricted Funds	3,000,000	

	aw.	Centralized Support System	
		Restricted Funds	1,850,000
	ax.	Network Nine Residence Halls	
		Restricted Funds	1,300,000
7.	Northern Kentucky University		
	a.	Covington Campus Privatization	
		Other Funds	11,000,000
	b.	Alumni & Faculty/Staff Center	
		Other Funds	4,000,000
	c.	Safety Lighting	
		Restricted Funds	910,000
	d.	Nunn Hall Mechanical Upgrade	
		Restricted Funds	500,000
	e.	Minor Projects Pool (2000-2002)	
		Restricted Funds	2,170,000
	f.	Old Science Renovation (Design Phase)	
		Bond Funds	1,000,000
	g.	Land Acquisition (2000-2002)	
		Restricted Funds	4,000,000
	h.	Classroom/Technology Initiative	
		Restricted Funds	3,000,000
	i.	Boiler/Chiller Replacement	
		Restricted Funds	1,500,000
	j.	Elevator Upgrade	
		Restricted Funds	600,000
	k.	New Power Plant	
		Bond Funds	12,000,000
	l.	Master Plan Initiatives Phase I	
		Restricted Funds	1,500,000
	m.	Chilled Water System Redesign	
		Restricted Funds	400,000
	n.	Refurbish Nunn Hall	
		Restricted Funds	600,000
	o.	New Residence Hall	
		Other Funds	15,000,000
	p.	Greenhouse	
		Other Funds	500,000
	q.	Ultracentrifuge	
		Restricted Funds	100,000
	r.	Planetarium Equipment	
		Other Funds	750,000
	s.	Coach Bus	
		Restricted Funds	330,000
	t.	Gas Chromatograph/Mass Spectrometer	
		Restricted Funds	145,000
	u.	NMR Spectrometer	
		Restricted Funds	385,000
	v.	New Press	

	Restricted Funds	235,000
w.	Data Storage System	
	Restricted Funds	130,000
x.	Automated Tape System	
	Restricted Funds	155,000
y.	Metropolitan Education & Training Center -Lease	
8.	University of Kentucky	
a.	Chilled Water Additions	
	Restricted Funds	784,000
b.	Storm Sewer Improvements, Funkhouser	
	Restricted Funds	910,000
c.	Chiller Replacement - Cooling #3	
	Restricted Funds	2,500,000
d.	Electrical Substation Upgrade	
	Restricted Funds	3,600,000
e.	Steam and Condensate Pipe Repair Phase I	
	Restricted Funds	2,352,000
f.	Substation #2 Renovation	
	Restricted Funds	2,520,000
g.	Pollution Controls, Central Heating Plant #2	
	Restricted Funds	1,494,000
h.	Steam and Condensate Pipe Improvements Phase II	
	Restricted Funds	2,494,000
i.	Cooling Plant #1 Expansion	
	Restricted Funds	14,755,000
j.	Central Heating Plant #2 Improvements	
	Restricted Funds	1,247,000
k.	Chilled Water Piping Addition to Pit	
	Restricted Funds	1,174,000
l.	Upgrade Chilled Water Systems at Medical Center	
	Restricted Funds	3,450,000
m.	Steam Line Expansion - Medical Center	
	Restricted Funds	2,867,000
n.	Sanitary Line Project	
	Restricted Funds	2,360,000
o.	Communication Project	
	Restricted Funds	1,735,000
p.	Medical Center Library Information Center	
	Restricted Funds	3,000,000
q.	Nursing Building Elevator Controls Upgrade	
	Restricted Funds	500,000
r.	Outpatient Clinic Expansion	
	Restricted Funds	1,000,000
s.	Energy Performance Contracting (Medical Center)	
	Restricted Funds	10,000,000
t.	Academic and Research Renovation II (COM)	
	Restricted Funds	500,000
u.	Retrofitting of Research Facilities	

	Restricted Funds	480,000
v.	Research Space Enhancement	
	Restricted Funds	600,000
w.	Medical Center Security Improvement Measures, PH	
	Restricted Funds	600,000
x.	Communication Infrastructure, Phase I	
	Restricted Funds	800,000
y.	Departmental Upgrading	
	Restricted Funds	750,000
z.	Research Lab Fit-Up (Aging/Allied Health)	
	Restricted Funds	7,000,000
aa.	Biomedical Sciences Research Building	
	Bond Funds	39,000,000
	Restricted Funds	26,000,000
	Total	65,000,000
ab.	Land Acquisition	
	Restricted Funds	4,000,000
ac.	Lancaster Aquatics Center Expansion	
	Restricted Funds	2,750,000
ad.	Student Housing/Fraternity House Replacement	
	Agency Bonds	6,000,000
ae.	Parking #2 Expansion/Renovation/Replacement	
	Agency Bonds	11,000,000
af.	Police/Parking Building	
	Restricted Funds	2,300,000
ag.	Commonwealth Stadium Field Renovation	
	Restricted Funds	1,500,000
ah.	Women's Basketball Office Renovation	
	Restricted Funds	550,000
ai.	Commonwealth Stadium Field Light Replacement	
	Restricted Funds	1,500,000
aj.	KGS Well Sample and Core Repository Building	
	Restricted Funds	2,545,000
ak.	Environmental Institute	
	Restricted Funds	2,500,000
al.	Life Safety Pool	
	Restricted Funds	2,145,000
am.	Handicapped Access Pool	
	Restricted Funds	350,000
an.	Deferred Maintenance Pool	
	Restricted Funds	2,095,000
ao.	Life Safety - Lex Campus Fume Hoods - Phase III	
	Restricted Funds	3,205,000
ap.	Life Safety - Lex Campus - Asbestos Abatement I	
	Restricted Funds	500,000
aq.	Life Safety - Underground Storage Tanks	
	Restricted Funds	927,000
ar.	Capital Renewal Pool	

	Restricted Funds	12,268,000	
as.	Renovation of Biological Sciences Research Space		
	Restricted Funds	1,430,000	
at.	Keeneland Hall - HVAC		
	Agency Bonds	2,821,000	
au.	Jewell Hall - HVAC		
	Agency Bonds	1,040,000	
av.	Boyd Hall - HVAC		
	Agency Bonds	1,633,000	
aw.	Renovation of Funkhouser - Phase IV		
	Restricted Funds		770,000
ax.	Chemistry Laboratory Renovation		
	Restricted Funds	1,155,000	
ay.	Gatton College Addition for Int'l Business and Management		
	Restricted Funds		1,725,000
az.	Cooperstown - Phase IV		
	Agency Bonds	1,313,000	
ba.	Seaton Center Addition/Renovation		
	Agency Bonds	15,350,000	
bb.	School of Library and Information Science		
	Restricted Funds	750,000	
bc.	Nursing Unit Modification IX		
	Restricted Funds	3,780,000	
bd.	Nursing Unit Modification X		
	Restricted Funds	3,780,000	
be.	Diagnostic Services Upgrade IX		
	Restricted Funds	1,575,000	
bf.	Outpatient Services II		
	Restricted Funds	5,040,000	
bg.	Diagnostic Services Upgrade X		
	Restricted Funds	1,155,000	
bh.	Implementation of Land Use Plan III		
	Restricted Funds	2,625,000	
bi.	Parking Structure III		
	Restricted Funds	7,350,000	
bj.	Building Connectors II		
	Restricted Funds	2,200,000	
bk.	Energy Performance Contracting		
	Restricted Funds	20,000,000	
bl.	Implementation of Land Use Plan II		
	Restricted Funds	2,500,000	
bm.	Limited Stay Facility		
	Restricted Funds	5,460,000	
bn.	Building/Site Upgrade II		
	Restricted Funds	710,000	
bo.	Hospital Kitchen Renovation I		
	Restricted Funds	1,050,000	
bp.	Hospital Kitchen Renovation II		

	Restricted Funds	546,000
bq.	Markey Fourth Floor Renovation	
	Restricted Funds	3,990,000
br.	Imaging Services	
	Restricted Funds	3,675,000
bs.	Diagnostic Services Upgrade VIII	
	Restricted Funds	1,100,000
bt.	Intra-Hospital Transportation Systems III	
	Restricted Funds	735,000
bu.	Parking Structure I	
	Restricted Funds	6,600,000
bv.	Biohazard/Environmental Protection I	
	Restricted Funds	1,575,000
bw.	Materials Handling Storage/Distribution Center	
	Restricted Funds	1,019,000
bx.	Parking Structure II	
	Restricted Funds	6,930,000
by.	Data Systems Expansion I	
	Restricted Funds	595,000
bz.	Biohazard/Environmental Protection II	
	Restricted Funds	1,575,000
ca.	Intra-Hospital Transportation System IV	
	Restricted Funds	735,000
cb.	HVAC Upgrade	
	Restricted Funds	3,500,000
cc.	Data Systems Expansion II	
	Restricted Funds	641,000
cd.	Building/Site Upgrade III	
	Restricted Funds	767,000
ce.	Hospital Parking Expansion	
	Restricted Funds	3,100,000
cf.	Nutrition Services Upgrade	
	Restricted Funds	1,050,000
cg.	Outpatient Care Facility	
	Restricted Funds	3,500,000
ch.	Support Services Upgrade	
	Restricted Funds	2,415,000
ci.	Utility System Upgrade V	
	Restricted Funds	1,680,000
cj.	Patient Care Facility/Women's Cancer Center	
	Restricted Funds	9,200,000
ck.	Energy Performance Contracting (Lexington Campus)	
	Restricted Funds	50,000,000
cl.	Stiff Testing Machine	
	Restricted Funds	140,000
cm.	Hydro Flume	
	Restricted Funds	130,000

cn.	High Resolution Mass Spectrometer	
	Restricted Funds	500,000
co.	High Temperature Optical Microscope	
	Restricted Funds	105,000
cp.	Holographic System with Image Analyzer	
	Restricted Funds	110,000
cq.	High Resolution STEM 400KV	
	Restricted Funds	1,500,000
cr.	Studio Recording Equipment	
	Restricted Funds	113,000
cs.	Tinius Olsen Ductometer	
	Restricted Funds	100,000
ct.	High Pressure Liquid Chromatography	
	Federal Funds	100,000
	Restricted Funds	100,000
	Total	200,000
cu.	High Power CO2 Laser	
	Restricted Funds	250,000
cv.	Freeze-Thaw Apparatus	
	Restricted Funds	100,000
cw.	X-Ray Laue Unit - Single Crystal	
	Restricted Funds	150,000
cx.	Thermal Analyzer and Powder Diffractometer	
	Restricted Funds	310,000
cy.	Sterilizing/Cleaning System	
	Restricted Funds	234,000
cz.	Solids NMR Spectrometer	
	Restricted Funds	900,000
da.	Environmental Test System	
	Restricted Funds	125,000
db.	Upgrade of 400 MHz Nuclear Magnetic Resonance	
	Federal Funds	340,000
	Restricted Funds	160,000
	Total	500,000
dc.	Electron Spin Resonance Instrument	
	Federal Funds	135,000
	Restricted Funds	65,000
	Total	200,000
dd.	Ultra High Vacuum Chamber	
	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
de.	Laser System	
	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
df.	Faraday Balance	
	Federal Funds	140,000

	Restricted Funds	60,000
	Total	200,000
dg.	Area Detector Diffractometer	
	Federal Funds	210,000
	Restricted Funds	100,000
	Total	310,000
dh.	High-Speed Digital Signal Processing Development	
	Federal Funds	150,000
di.	Three-Dimensional Scaling Device	
	Federal Funds	100,000
dj.	Garbage Truck Front Loader - Replacement	
	Restricted Funds	165,000
dk.	MB/GT Phospho-Imager	
	Restricted Funds	128,000
dl.	MB Ultracentrifuges	
	Restricted Funds	354,000
dm.	Mass Spectrograph for Oligonucleotide Analysis	
	Restricted Funds	250,000
dn.	Gas Chromatograph Mass Spectrophotometer System	
	Restricted Funds	101,000
do.	Fluor. Microscope with Imaging System	
	Restricted Funds	125,000
dp.	CAD/CAM System (College of Dentistry)	
	Restricted Funds	184,000
dq.	Tabletop H50 Gas Chromatograph Mass Spectrometer	
	Restricted Funds	101,000
dr.	Liquid Filling/Stoppering Line	
	Restricted Funds	351,000
ds.	Encapsulator	
	Restricted Funds	151,000
dt.	Semi-Solid Manufacturing Equipment	
	Restricted Funds	211,000
du.	Terminal Sterilizing Autoclave	
	Restricted Funds	221,000
dv.	Fluorescene Analyzer	
	Restricted Funds	109,000
dw.	High Performance Liquid Chromatography	
	Restricted Funds	131,000
dx.	Image Analysis System	
	Restricted Funds	206,000
dy.	Confocal Microscope	
	Restricted Funds	325,000
dz.	Epi-Fluorescene Microscope	
	Restricted Funds	134,000
ea.	Gas Chromatograph Mass Spectrometer	
	Restricted Funds	258,000
eb.	Flow Cytometry Lab	
	Restricted Funds	375,000

ec.	Ultracentrifuge	
	Restricted Funds	117,000
ed.	9.4 Tessler Scanner	
	Restricted Funds	868,000
ee.	600 MHz NMR System	
	Restricted Funds	1,753,000
ef.	800 MHz NMR System	
	Restricted Funds	2,903,000
eg.	DNA Synthesizer	
	Restricted Funds	103,000
eh.	Fluorescent Activated Cell Sorter	
	Restricted Funds	237,000
ei.	Protein Synthesizer	
	Restricted Funds	206,000
ej.	Research Grade Light Microscope	
	Restricted Funds	103,000
ek.	High Resolution Phosophor Imager	
	Restricted Funds	206,000
el.	DNA Sequencer	
	Restricted Funds	134,000
em.	3T Human Research System	
	Restricted Funds	2,527,000
en.	Mammography X-Ray Unit	
	Restricted Funds	101,000
eo.	Sequence Detection System	
	Restricted Funds	100,000
ep.	Fluor. Microscope and Image Analysis System	
	Restricted Funds	150,000
eq.	Auto. Poly. Chain Reaction Analysis Machine	
	Restricted Funds	150,000
er.	DNA Sequencer	
	Restricted Funds	158,000
es.	Laser Confocal Microscope	
	Restricted Funds	312,000
et.	Inverted Microscope Including Fluoroscope	
	Restricted Funds	155,000
eu.	Image Analyzer System	
	Restricted Funds	206,000
ev.	Electrophysiologic Analysis System	
	Restricted Funds	207,000
ew.	Multiphoton Imaging System	
	Restricted Funds	505,000
ex.	Behavioral Monitoring & Analysis System	
	Restricted Funds	150,000
ey.	Gene Chip Instrument System	
	Restricted Funds	450,000
ez.	Combi. Met. Cart, ECG, Auto BP, Plethusmography	
	Restricted Funds	123,000

fa.	Upgrade Scanner System		
	Restricted Funds	500,000	
fb.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds	250,000	
fc.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
fd.	Plot Combine with Weighing System		
	Restricted Funds	125,000	
fe.	HPLC/Mass Spectrometer System		
	Restricted Funds	300,000	
ff.	X-Ray Fluorescence		
	Restricted Funds	130,000	
fg.	Transmission Electron Microscope		
	Restricted Funds	200,000	
fh.	Oxymax Open Circuit Calorimeter		
	Restricted Funds	100,000	
fi.	Virtual Environment Simulator		
	Restricted Funds	125,000	
fj.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
fk.	Inductive Coupled Argon Plasma Unit		
	Restricted Funds	110,000	
fl.	DNA Sequencer/Gene Mapping		
	Restricted Funds	130,000	130,000
fm.	High Throughput DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
fn.	DNA Chip Analysis System		
	Restricted Funds	160,000	
fo.	Luminometer		
	Restricted Funds	110,000	
fp.	Robotics Pipettor System		
	Restricted Funds	104,000	
fq.	Confocal Microscope		
	Restricted Funds	130,000	
fr.	Ultracentrifuge		
	Restricted Funds	110,000	
fs.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
ft.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
fu.	Automated DNA Sequencer		
	Restricted Funds	130,000	
fv.	DNA Sequencer		
	Restricted Funds	125,000	
fw.	Confocal Microscope		
	Restricted Funds	150,000	
fx.	Fluoro/Phosphoimager		
	Restricted Funds	120,000	

fy.	Genetic Analyzer	
	Restricted Funds	140,000
fz.	Multi-Unit Microbial Containment Chamber	
	Restricted Funds	100,000
ga.	Transmission Electron Microscope	
	Restricted Funds	300,000
gb.	Plot Combine	
	Restricted Funds	125,000
gc.	Forage Harvester System	
	Restricted Funds	150,000
gd.	HPLC-Mass Spectrometer	
	Restricted Funds	217,000
ge.	Plot Combine	
	Restricted Funds	130,000
gf.	Inductive Coupled Plasma Spectrometer System	
	Restricted Funds	120,000
gg.	Mass Spectrometer	
	Restricted Funds	200,000
gh.	Near Infrared Reflectance Spectrometer	
	Restricted Funds	125,000
gi.	Confocal Microscope	
	Restricted Funds	130,000
gj.	Laser Ablation Sampling System	
	Restricted Funds	200,000
gk.	Gas Analyzer	
	Restricted Funds	100,000
gl.	NMR Spectrometer 300 MHz	
	Restricted Funds	400,000
gm.	ESCA - X-Ray Photoelectron Microscope	
	Restricted Funds	400,000
gn.	Fourier-transform Infra-Red Raman Spectrometer	
	Restricted Funds	175,000
go.	Field Emission Scanning Electron Microscope	
	Restricted Funds	175,000
gp.	System for Materials Forming	
	Restricted Funds	180,000
gq.	Instrumentation for Materials Characterization	
	Restricted Funds	150,000
gr.	High Resolution Optical Microscope	
	Restricted Funds	110,000
gs.	Gas Chromatograph/MSD	
	Restricted Funds	110,000
gt.	Networked Printer	
	Restricted Funds	200,000
gu.	Printing System	
	Restricted Funds	200,000
gv.	Digital Orbitor Camera	
	Restricted Funds	250,000

gw.	EKG Management System	
	Restricted Funds	250,000
gx.	Cardiac Cath Laboratory Unit	
	Restricted Funds	9,280,000
gy.	Electrophysiology Laboratory	
	Restricted Funds	1,740,000
gz.	Digital Enhancement	
	Restricted Funds	986,000
ha.	General Radiography Unit	
	Restricted Funds	928,000
hb.	Surgical Microscope	
	Restricted Funds	400,000
hc.	Laboratory Analyzer	
	Restricted Funds	400,000
hd.	Radiation Therapy Unit	
	Restricted Funds	2,088,000
he.	Mobile Fluoroscopy	
	Restricted Funds	200,000
hf.	Surgical Laser	
	Restricted Funds	400,000
hg.	CT Scanner	
	Restricted Funds	1,740,000
hh.	General Radiography/Fluoroscopic Unit	
	Restricted Funds	500,000
hi.	OB Ultrasound	
	Restricted Funds	300,000
hj.	Vascular Ultrasound	
	Restricted Funds	300,000
hk.	Cardiac Ultrasound	
	Restricted Funds	1,600,000
hl.	Endoscopic Video System	
	Restricted Funds	300,000
hm.	Angiography Unit	
	Restricted Funds	1,740,000
hn.	Neuro-Radiography Unit	
	Restricted Funds	1,740,000
ho.	SPECT System	
	Restricted Funds	870,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	Radiology Ultrasound	
	Restricted Funds	400,000
hr.	Mobile Radiology Unit	
	Restricted Funds	200,000
hs.	General Radiology Unit	
	Restricted Funds	928,000
ht.	Gamma Knife Upgrade	
	Restricted Funds	2,320,000

hu.	EMG Unit	
	Restricted Funds	200,000
hv.	MRI Upgrade	
	Restricted Funds	500,000
hw.	Digital Radiology	
	Restricted Funds	4,060,000
hx.	Fluoroscopy Unit	
	Restricted Funds	500,000
hy.	Endoscopy Video Ultrasound	
	Restricted Funds	250,000
hz.	Treatment Planning System	
	Restricted Funds	1,392,000
ia.	Angiography Unit	
	Restricted Funds	1,160,000
ib.	ATL Ultrasound	
	Restricted Funds	200,000
ic.	Biplane Angiography	
	Restricted Funds	1,160,000
id.	Cardiac Catheterization Image Management System	
	Restricted Funds	870,000
ie.	C-Arm X-Ray Unit	
	Restricted Funds	250,000
if.	C-Arm X-Ray Unit	
	Restricted Funds	400,000
ig.	C-Arm X-Ray Unit	
	Restricted Funds	350,000
ih.	CR PAC Server	
	Restricted Funds	250,000
ii.	CT Scanners	
	Restricted Funds	3,480,000
ij.	CT Stimulator	
	Restricted Funds	1,160,000
ik.	Digital Radiology	
	Restricted Funds	928,000
il.	Diagnostic Radiology Unit	
	Restricted Funds	300,000
im.	Endoscopic Ultrasound	
	Restricted Funds	400,000
in.	Electrophysiology Lab	
	Restricted Funds	5,800,000
io.	Filmless System	
	Restricted Funds	120,000
ip.	Intracardiac Laser	
	Restricted Funds	500,000
iq.	Linear Accelerator	
	Restricted Funds	1,856,000
ir.	Mammography Unit	
	Restricted Funds	200,000

is.	Minimally Invasive Room	
	Restricted Funds	1,490,000
it.	Mobile CT	
	Restricted Funds	1,000,000
iu.	Nuclear Medicine Camera	
	Restricted Funds	870,000
iv.	OR Perioperative IS Document System	
	Restricted Funds	200,000
iw.	PACS Server	
	Restricted Funds	800,000
ix.	Portal Imaging System	
	Restricted Funds	200,000
iy.	QuadRIS	
	Restricted Funds	600,000
iz.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ja.	Radiographic Unit	
	Restricted Funds	350,000
jb.	Radiographic Units	
	Restricted Funds	1,250,000
jc.	Steam Autoclave	
	Restricted Funds	375,000
jd.	Sterrad Sterilizer	
	Restricted Funds	375,000
je.	Surgical C-Arm (ISS) System	
	Restricted Funds	550,000
jf.	Teleradiology	
	Restricted Funds	200,000
jg.	Ultrasound Image Management	
	Restricted Funds	700,000
jh.	Vascular Ultrasound	
	Restricted Funds	800,000
ji.	Washer	
	Restricted Funds	230,000
jj.	Digital Imaging	
	Restricted Funds	870,000
jk.	General Chemistry Computerization	
	Restricted Funds	385,000
jl.	Language Lab	
	Restricted Funds	300,000
jm.	Engineering Research Computing System	
	Restricted Funds	440,000
jn.	Network Replacement	
	Restricted Funds	78,000
jo.	Department Computer Upgrade	
	Restricted Funds	225,000
jp.	Distributed Testbed System	
	Restricted Funds	250,000

jq.	NSF Fileserver		
	Restricted Funds	150,000	
jr.	Optical Disk Server		
	Restricted Funds	180,000	
js.	Telemedicine Systems		
	Restricted Funds		600,000
jt.	Instructional Multi-Media, Phase II		
	Restricted Funds	1,168,000	730,000
ju.	Compressed Video - Hazard		
	Restricted Funds	141,000	
jv.	Upgrading/Establishing Communication System		
	Restricted Funds	364,000	463,000
jw.	Patient Classification Equipment Rural Health		
	Restricted Funds	260,000	
jx.	Telemedicine Rural Health		
	Restricted Funds	416,000	
jy.	Satellite Uplink Rural Health		
	Restricted Funds	416,000	
jz.	Virtual Reality Computing System		
	Restricted Funds	150,000	
ka.	Database Testbed		
	Restricted Funds	225,000	
kb.	Campus Infrastructure Upgrade		
	Restricted Funds	1,750,000	1,750,000
kc.	UNIX Server		
	Restricted Funds	1,200,000	
kd.	Research Computing		
	Restricted Funds	3,500,000	
ke.	Storage Management Upgrade		
	Restricted Funds	200,000	
kf.	Imaging System Upgrade		
	Restricted Funds		275,000
kg.	Mainframe Upgrade		
	Restricted Funds	1,500,000	
kh.	Video Switch		
	Restricted Funds	250,000	
ki.	Upgrade HIS Computing Facilities		
	Restricted Funds	2,900,000	
kj.	Clinical Information System		
	Restricted Funds	3,480,000	
kk.	Digital Medical Record Expansion		
	Restricted Funds	4,640,000	
kl.	Patient System Enterprise		
	Restricted Funds	4,640,000	
km.	Managed Care Enterprise		
	Restricted Funds	1,160,000	
kn.	Clinical System Enterprise		
	Restricted Funds	5,800,000	

	ko.	State Communication Enterprise		
		Restricted Funds	3,480,000	
	kp.	Mass Storage Capability		
		Restricted Funds	200,000	
	kq.	Upgrade Disk Capacity		
		Restricted Funds	250,000	
	kr.	Upgrade Telecommunications Facilities		
		Restricted Funds	250,000	
	ks.	UK Center for Rural Health		
		Reauthorization		
	kt.	Ophthalmic Imaging System		
		Restricted Funds	48,000	
	ku.	Sensomotoric Instruments Eyelink System		
		Restricted Funds	30,000	
	kv.	High Speed Eye Tracking System		
		Restricted Funds	42,000	
	kw.	EMG System Eight Channel EMG Monitoring System		
		Restricted Funds	23,000	
9.	University of Louisville			
	a.	Code Improvements - Fire Safety Pool		
		Restricted Funds	1,029,000	
	b.	Americans Disabilities Act (ADA) Project Pool		
		Restricted Funds	2,638,000	
	c.	Capital Renewal Project Pool		
		Restricted Funds	6,225,000	
	d.	Support Services Land Acquisition (Northeast)		
		Restricted Funds	4,202,000	
	e.	Student Services Building Renovation (Houchens)		
		Restricted Funds	5,489,000	
	f.	Chemistry Fume Hood Redesign		
		Restricted Funds	5,397,000	
	g.	Reynolds Building Renovation - Housing and Support Services		
		Other Funds	15,433,000	
	h.	Environmental Health and Safety Project Pool		
		Restricted Funds	360,000	
	i.	Sports and Recreation Institute		
		Other Funds	26,247,000	
	j.	Life Sciences Lab Ventilation Renovation		
		Restricted Funds	3,638,000	
	k.	Multi-Cultural Center Building		
		Restricted Funds		5,096,000
	l.	Chlorofluorocarbon Project, Phase III		
		Restricted Funds	1,953,000	
	m.	Dental Clinic and Sterilization Renovation		
		Other Funds		3,363,000
	n.	Early Childhood "EDUCARE" Center		
		Federal Funds	3,211,000	
	o.	HSC Parking Garage - Two Additional Floors		

	Restricted Funds	4,609,000	
p.	Research Resources Center Expansion		
	Other Funds	6,473,000	
	Restricted Funds	2,158,000	
	Total	8,631,000	
q.	MDR Renovation, Phase II, Building 51		
	Restricted Funds		1,619,000
r.	Residence Hall - 600 Beds-Metro Col, Phase II		
	Other Funds	27,843,000	
s.	Cardinal Park - Natatorium		
	Other Funds	12,373,000	
	Restricted Funds	7,266,000	
	Total	19,639,000	
t.	Purchase & Renovate Building (Home of Innocents)		
	Other Funds		3,553,000
	Restricted Funds		3,553,000
	Total		7,106,000
u.	Research Building (Belknap Campus)		
	Bond Funds	25,000,000	
	Restricted Funds	16,368,000	
	Total	41,368,000	
v.	Stoddard Johnston School Renovation		
	Restricted Funds		6,350,000
w.	Pedestrian Overpass at Stadium (Brook Street)		
	Federal Funds	1,901,000	
	Other Funds	475,000	
	Total	2,376,000	
x.	Window Replacements (Belknap Campus)		
	Other Funds	2,694,000	
y.	Cardinal Park - Practice Field, Multicourts, Cardiopath		
	Other Funds	2,813,000	
z.	Health Sciences Library Infrastructure & Renovation		
	Restricted Funds	2,450,000	
aa.	Purchase Parking Space on Health Sciences Campus		
	Restricted Funds	825,000	
ab.	Ekstrom Library Infrastructure and Renovation		
	Restricted Funds	1,924,000	
ac.	Deferred Maintenance Project Pool		
	Restricted Funds	250,000	
ad.	Guaranteed Energy Cost Savings Project (HB-639)		
	Other Funds	3,000,000	
ae.	Boathouse for Rowing Team		
	Other Funds	2,300,000	
af.	Radiographic/Fluroscopic Imaging Unit		
	Restricted Funds	195,000	
ag.	Digital Micro-Luminography System for TEM		
	Restricted Funds		120,000
ah.	Electronic Darkroom		

	Restricted Funds	113,000	
ai.	Gel/Blot Image Analysis System		
	Restricted Funds	145,000	
aj.	High Resolution SEM-Backscatter Detector		
	Restricted Funds	160,000	
ak.	Automated DNA Sequencer		
	Restricted Funds		159,000
al.	Eximer Laser		
	Restricted Funds		600,000
am.	Video Diagnostic Analysis System		
	Restricted Funds		154,000
an.	White Blood Cell Velocity Measurement System		
	Restricted Funds		126,000
ao.	Diode Laser		
	Restricted Funds		100,000
ap.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	317,000	
aq.	Animal Irradiator		
	Restricted Funds	154,000	
ar.	Interm. Voltage Transmission Electron Microscope		
	Restricted Funds	350,000	
as.	Nailfold Microvascular Analysis System		
	Restricted Funds	119,000	
at.	In Vivo Thrombosis Detection & Quant. System		
	Restricted Funds	168,000	
au.	Peptide Sequencer		
	Restricted Funds	151,000	
av.	Small Vein In Vivo Diagnostic System		
	Restricted Funds	197,000	
aw.	Automated Synthesizer		
	Federal Funds	100,000	
	Restricted Funds	100,000	
	Total	200,000	
ax.	FT IR Spectrometer		
	Federal Funds		75,000
	Restricted Funds		75,000
	Total		150,000
ay.	Scanning Tunneling Microscope		
	Restricted Funds	140,000	
az.	Capillary Electrophoresis - Mass Spectrometer		
	Restricted Funds		200,000
ba.	EPR Spectrometer Update		
	Federal Funds		65,000
	Restricted Funds		60,000
	Total		125,000
bb.	NMR Spectrometer (750 MHz NMR)		
	Federal Funds	800,000	
	Restricted Funds	400,000	

	Total	1,200,000	
bc.	Trash Compactor Truck		
	Restricted Funds	135,000	
bd.	SEM Accesorries for Elemental Analysis		
	Restricted Funds	165,000	
be.	Peak 3D Comp Motion Measurement & Analysis System		
	Restricted Funds	120,000	
bf.	Atomic Absorption Spectrometer, High-Resolution		
	Restricted Funds	110,000	
bg.	Ultra High Vacuum Chamber		
	Restricted Funds	310,000	
bh.	Metallorganic Chemical Vapor Deposition		
	Restricted Funds	210,000	
bi.	Mechanical Spectrometer - Rheometrics		
	Restricted Funds	160,000	
bj.	Axial/Torsional Tester		
	Restricted Funds	195,000	
bk.	Microelectronics Processing System		
	Restricted Funds	162,000	
bl.	Dynamometer		
	Restricted Funds	122,000	
bm.	IR Spectrometer		
	Restricted Funds	110,000	
bn.	X-Ray Fluorescence Spectrometer		
	Restricted Funds	210,000	
bo.	Micro CT Scanner		
	Restricted Funds	300,000	
bp.	XPS/Auger Spectroscope		
	Restricted Funds	253,000	
bq.	Laser Ablation Unit		
	Restricted Funds		230,000
br.	Sputtering Unit		
	Restricted Funds	162,000	
bs.	Materials Testing System		
	Restricted Funds	189,000	
bt.	Load Application System		
	Restricted Funds		208,000
bu.	Visualization System		
	Restricted Funds	121,000	
bv.	CNC Grinding Machine		
	Restricted Funds	169,000	
bw.	Correlation Microscope		
	Federal Funds	190,000	
	Restricted Funds	5,000	
	Total	195,000	
bx.	Full Object Scanner		
	Restricted Funds	360,000	
by.	Finishing Device		

	Restricted Funds		250,000
bz.	Color Digital Output Engine		
	Restricted Funds	700,000	
ca.	Florescent Spectrometer		
	Federal Funds		135,000
	Restricted Funds		135,000
	Total		270,000
cb.	Neuro Scan ESI-128: 128 Channel ERP System		
	Federal Funds	40,000	
	Restricted Funds	100,000	
	Total	140,000	
cc.	X-Ray Diffraction Module		
	Federal Funds		250,000
	Restricted Funds		500,000
	Total		750,000
cd.	Laser Microfabrication Lab		
	Federal Funds		275,000
	Restricted Funds		275,000
	Total		550,000
ce.	Infra-Red Imaging System		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
cf.	Large Area Microplating		
	Federal Funds		150,000
	Restricted Funds		150,000
	Total		300,000
cg.	Differential Scanning Calorimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ch.	Circular Dichroism Spectropolarimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ci.	Laser Spectrometer		
	Federal Funds		93,000
	Restricted Funds		100,000
	Total		193,000
cj.	Electronic Journals and Full Text - Libraries		
	Restricted Funds	2,000,000	
ck.	Electronic Journals and Full Text - Libraries		
	Restricted Funds	1,000,000	
cl.	Nuclear Medicine Hot Lab		
	Restricted Funds	107,000	
cm.	Flow Cytometer		
	Restricted Funds	165,000	

cn.	High Performance Q-TOF Spectrometer		
	Restricted Funds	500,000	
co.	HPLC-Ion Resonance Cyclotron		
	Restricted Funds	180,000	
cp.	Microcalorimeter		
	Restricted Funds	137,000	
cq.	Nucleic Acid Microchip Analyzer		
	Restricted Funds		185,000
cr.	Analytical Centrifuge		
	Restricted Funds		139,000
cs.	Inductively Coupled Plasma Spectrometer		
	Restricted Funds		160,000
ct.	Plasmon Resonance Instrument (Biochem - X)		
	Restricted Funds		107,000
cu.	DNA CEQ 2000 Analysis System		
	Restricted Funds		150,000
cv.	Geneotype Nucleic Acid Chip Analyzer		
	Restricted Funds		200,000
cw.	Confocal Microscope (OPTH)		
	Restricted Funds	401,000	
cx.	Confocal Microscope (ASN)		
	Restricted Funds		280,000
cy.	Plasmon Resonance Instrument (Biochem - 3000)		
	Restricted Funds	250,000	
cz.	MALDI-Reflex-TOF		
	Restricted Funds	310,000	
da.	ACUSON - Aspen Ultrasound Imaging System		
	Restricted Funds	176,000	
db.	Human Patient Simulator		
	Restricted Funds	1,110,000	
dc.	Flow Cytometer/Cell Sorter		
	Restricted Funds	152,000	
dd.	NMR Instrument 600 MHz		
	Federal Funds	600,000	
	Restricted Funds	1,300,000	
	Totals	1,900,000	
de.	Expand Medical Information Technology Infrastructure		
	Restricted Funds	500,000	
df.	Student Records Imaging Storage & Retrieval System		
	Restricted Funds	475,000	
dg.	Wiring for Computer Access - Residence Halls		
	Restricted Funds	600,000	
dh.	Fiber Optic LAN/Computer-Based Instruction System		
	Restricted Funds	427,000	
di.	Compressed Video Conferencing Room and Instruction Lab		
	Restricted Funds	446,000	
dj.	Computer Workstations for Libraries		
	Restricted Funds	200,000	

dk.	Collaborative Learning Centers - Libraries		
	Restricted Funds	557,000	
dl.	OC3 Network Equipment		
	Restricted Funds	315,000	
dm.	High Speed Graphics Imaging System		
	Restricted Funds		200,000
dn.	Network Switching System		
	Restricted Funds	300,000	300,000
do.	Digital Communications Network		
	Restricted Funds	1,500,000	
dp.	Voice Automation Enhancements		
	Restricted Funds	250,000	
dq.	Digital Microwave Network		
	Restricted Funds	250,000	
dr.	Computer Processing System		
	Restricted Funds	1,500,000	500,000
ds.	Mainframe Memory		
	Restricted Funds	250,000	250,000
dt.	High Volume Output Devices/Duplicators		
	Restricted Funds	376,000	500,000
du.	Engineering/Scientific Processor		
	Restricted Funds	600,000	500,000
dv.	Client/Server System/File Server(s)		
	Restricted Funds	600,000	500,000
dw.	Specialized Central Processing Unit		
	Restricted Funds	250,000	250,000
dx.	Storage System(s)		
	Restricted Funds	500,000	500,000
dy.	Virtual Reality Display System		
	Federal Funds		100,000
	Restricted Funds		100,000
	Total		200,000
dz.	High Energy Physics Data Analysis System		
	Federal Funds		200,000
	Restricted Funds		200,000
	Total		400,000
ea.	Condensed Matter Theory Computational System		
	Federal Funds		175,000
	Restricted Funds		160,000
	Total		335,000
eb.	Client/Server Alumni/Dev. Information Systems		
	Restricted Funds	750,000	
ec.	Digital Television Production Switcher		
	Restricted Funds	200,000	
ed.	Satellite Uplink Truck		
	Restricted Funds	200,000	
ee.	Intelligent Laser and Lighting System		
	Restricted Funds	360,000	

	ef.	Computer Visualization System		
		Restricted Funds	655,000	
	eg.	Commonwealth Virtual Univ. Lib Server-Upgrades		
		Restricted Funds	250,000	250,000
	eh.	One Card/Phase I & II		
		Restricted Funds	450,000	450,000
	ei.	Supercomputing System		
		Restricted Funds	1,500,000	
	ej.	Telecommunications Switch		
		Restricted Funds	750,000	
	ek.	Schultz Building Lease		
10.	Western Kentucky University			
	a.	E & G Capital Renewal/Life Safety Pool		
		Restricted Funds	8,935,000	
	b.	Campus Energy Conservation		
		Other Funds	3,750,000	
	c.	Ivan Wilson Center Chiller(s) Replacement		
		Restricted Funds	562,000	
	d.	Agriculture Exposition Center HVAC Improvements		
		Restricted Funds	731,000	
	e.	Public Radio and Television Transmission Tower		
		Restricted Funds	615,000	
	f.	Western Kentucky University Primary Electric Svc.		
		Restricted Funds	3,000,000	
	g.	Garrett Conference Center HVAC Project		
		Restricted Funds	600,000	
	h.	Cravens Repair Leaking Windows		
		Restricted Funds	591,000	
	i.	Academic Complex Replace VAV Boxes		
		Restricted Funds	638,000	
	j.	Academic Complex ACM Floor Tile Abatement		
		Restricted Funds	957,000	
	k.	Van Meter Renovation - Design		
		Restricted Funds	935,000	
	l.	Science Complex Renovation and Expansion		
		Bond Funds	15,000,000	
		Restricted Funds	11,000,000	
		Total	26,000,000	
	m.	Gordon Wilson Renovation - Design		
		Restricted Funds	437,500	
	n.	E S & T Replace Duct Work and HVAC Controls		
		Restricted Funds	633,000	
	o.	Kentucky Building HVAC Replacement		
		Restricted Funds	880,000	
	p.	Helm Library Fire Alarm Replacement		
		Restricted Funds	554,000	
	q.	Ivan Wilson Fine Arts Center Life Safety		
		Restricted Funds	441,000	

	r.	Telephone Infrastructure	
		Restricted Funds	3,000,000
	s.	Digital Television Transmission System	
		Federal Funds	800,000
		Restricted Funds	800,000
		Total	1,600,000
	t.	Campus Communications Network Expansion	
		Restricted Funds	750,000
	u.	ADA Accessible Shuttle Buses	
		Restricted Funds	360,000
	v.	Confocal Microscope	
		Restricted Funds	110,000
	w.	Video Server	
		Restricted Funds	800,000
11.		Kentucky Community and Technical College System	
	a.	West Kentucky College: Roof Replacement	
		Restricted Funds	999,000
	b.	Cumberland TC, Harlan Campus: Renovate Building 2	
		Bond Funds	4,114,000
	c.	Mayo Technical College: Campus Renovation	
		Bond Funds	7,582,000
	d.	Elizabethtown TC: HVAC System Replacement 66 and 75 Building	
		Restricted Funds	834,000
	e.	Bowling Green TC: Replace Roofs, Buildings G and H	
		Restricted Funds	532,000
	f.	Ashland Technical College: Original Campus Renovation	
		Bond Funds	6,900,000
	g.	KCTCS Capital Renewal Project Pool	
		Restricted Funds	10,165,000
	h.	Jefferson Technical College: HVAC System Replacement	
		Restricted Funds	2,491,000
	i.	Somerset TC: Fire and Sprinkler System	
		Restricted Funds	525,000
	j.	KCTCS Deferred Maintenance & Government Mandate Pool	
		Restricted Funds	3,571,000
	k.	KCTCS Program Renovation Pool	
		Restricted Funds	5,368,000
	l.	Northern KY Community & Technical College, Phase I	
		Bond Funds	10,000,000
	m.	Jefferson CC: Renovation of Downtown Campus	
		Bond Funds	8,800,000
	n.	Elizabethtown CC - Science Building Renovation	
		Bond Funds	2,200,000
	o.	Southeast CC - Newman Hall Renovation	
		Bond Funds	2,000,000
	p.	Madisonville CC: Muhlenberg Campus	
		Reauthorization	
	q.	Guaranteed Energy Savings Project Pool	

	Restricted Funds	5,000,000
r.	Hazard Technical College: Bulldozer	
	Restricted Funds	478,000
s.	Hazard Technical College: Trackhoe	
	Restricted Funds	150,000
t.	Ashland Technical College: Computer Interfaced Distillation Col.	
	Restricted Funds	114,000
u.	Mayo Technical College: Milling Machine	
	Restricted Funds	130,000
v.	Mayo Technical College: Johnson Phaser - Shape Cutter	
	Restricted Funds	150,000

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2000-01	2001-02
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Housing, Buildings and Construction		
a. Franklin County - Lease		

N. REVENUE CABINET

Budget Unit	2000-01	2001-02
1. Office of the Secretary		
a. Network Infrastructure Replacement		
Capital Construction Surplus	200,000	
b. Franklin County - Lease		
c. Franklin County - Lease		
d. Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	1999-00	2000-01	2001-02

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

1. Office of the Secretary

a. Elizabethtown State Theater

Reauthorization and Reallocation ($1,000,000 - Bond Funds)

b. Hardin County Public Library

Reauthorization and Reallocation ($300,000 -Bond Funds)

c. Lincoln Trail Domestic Violence Center

Reauthorization and Reallocation ($250,000 - Bond Funds)

d. Patton Museum Expansion Project

Reauthorization and Reallocation ($200,000 - Bond Funds)

e. Vaughn Reno Starks Community Center

Reauthorization and Reallocation ($200,000 - Bond Funds)

f. Wesley Hilltop House

Reauthorization and Reallocation ($50,000 - Bond Funds)

The projects cited immediately above are authorized from a reallocation of the Coca Cola Museum project in Hardin County appropriated by the 1998 Regular Session of the General Assembly in the amount of $2,000,000 in Bond Funds.

g. Western Kentucky Information/Tourism Center

Reauthorization ($200,000 - General Fund)

2. Kentucky State Fair Board

a.	Roof Replacement			
	Restricted Funds		800,000	
b.	Freedom Hall - Refurbish Seats			
	Restricted Funds		800,000	
c.	Freedom Hall - Portable Trailers			
	Restricted Funds			1,250,000
d.	Maintenance Pool			
	Restricted Funds		1,000,000	1,000,000
3.	Department of Fish and Wildlife Resources			
a.	Land Acquisition			
	Restricted Funds		500,000	500,000
b.	Maintenance Pool			
	Restricted Funds		200,000	200,000
4.	Kentucky Horse Park			
a.	Muck Processing Facility			
	Bond Funds		375,000	
b.	Maintenance Pool			
	Investment Income		375,000	475,000
5.	Department of Parks			
a.	Maintenance Pool			
	Investment Income		4,200,000	4,200,000
b.	Barren River HVAC Upgrade			
	General Fund			
	Additional	200,000		
c.	Nolin Park - Campground/Infrastructure			
	Reauthorization			
d.	Natural Bridge - Remediation Petroleum Contamination			
	Deferred Maintenance		300,000	
e.	Yatesville - Golf Course Development			
	Reauthorization			
f.	Grayson Lake - Golf Course Design/Development			
	Reauthorization			
g.	Taylorsville Lake - Community Pool Design			
	Reauthorization			
h.	Jefferson Davis Monument- Repairs			
	Emergency Repair Maintenance			
	Additional	2,210,000		
i.	Mineral Mound - Golf Course Development			
	Reauthorization			
j.	Kincaid Lake - Golf Course Development (Nine Hole) and other park improvements			
	Reauthorization			
k.	Pennyrile - Golf Course Development			
	Reauthorization			
l.	Dale Hollow - Golf Course Development			
	Reauthorization			
m.	My Old Kentucky Home - Golf Course Development			

	Reauthorization		
n.	Columbus - Belmont - Park Development		
	Reauthorization		
o.	Fort Boonesborough - Reroof Fort Buildings		
	Bond Funds	500,000	
p.	Lake Barkley - Park Improvements		
	Reauthorization		

P. TRANSPORTATION CABINET

	Budget Unit	2000-01	2001-02
1.	General Administration and Support		
a.	Transportation Building Parking Structure - New Construction		
	Bond Funds	20,700,000	
b.	Boone County Maintenance Building		
	Road Fund		515,000
c.	Powell County Maintenance Facility		
	Road Fund	900,000	
d.	Mason County Maintenance Facility		
	Road Fund		710,000
e.	Loadometer & Rest Area Maintenance and Repair		
	Road Fund	600,000	600,000
f.	Building Renovation & Emergency Repairs		
	Road Fund	500,000	500,000
g.	Painting and Roof Replacement		
	Road Fund	250,000	250,000
h.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
i.	Various Waste Treatment & Water Supply Projects		
	Road Fund	100,000	100,000
j.	Hydraulic Hoists, Heavy Equipment		
	Road Fund		100,000
k.	New Transportation Office Building		
	Reauthorization		
	Bond Funds - Additional	7,500,000	
l.	Campbell County Maintenance Facility		
	Road Fund	500,000	
	Restricted Funds	465,000	
	Total	965,000	
m.	Elizabethtown District Office Building		
	Road Fund	3,810,000	
n.	Road Maintenance/Various Parks		
	Road Fund	2,000,000	500,000
o.	Electronic Digital Surveying Systems		
	Road Fund	225,000	
p.	Weigh in Motion/Traffic Data Collection Equipment		
	Road Fund	310,000	320,000
q.	Direct Tension Tester for Asphalt		
	Road Fund	140,000	
r.	Soil Resilient Modulus Testing System		

	Road Fund		264,000
s.	X-Ray Fluorescence & X-Ray Diffraction Analyzers		
	Road Fund	155,000	220,000
t.	Mail Inserter/Burster Machine		
	Road Fund	130,000	
u.	MVE Mobile Computers and Peripherals		
	Road Fund		1,000,000
v.	Conversion & Web Pub. of Microfilm Plans		
	Road Fund		325,000
w.	Digitized Drivers Licensing		
	Reauthorization		
	Road Fund -Additional	180,000	2,160,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit			2000-01	2001-02
1.	General Administration and Program Support			
	a.	Maintenance Pool		
		Investment Income	250,000	425,000
2.	Vocational Rehabilitation			
	a.	Franklin County - Lease		
	b.	Carl D. Perkins Center: Rooftop Unit Replacement		
		Deferred Maintenance	369,000	
3.	Department for the Blind			
	a.	Franklin County - Lease		
4.	Office of Training and Reemployment			
	a.	Franklin County - Lease		

R. COMMUNITY DEVELOPMENT PROJECTS

1. GOVERNMENT OPERATIONS

Budget Unit	Local Government	2000-01
Allen County		
a.	Allen County Volunteer Fire Department	
	Bond Funds	125,000
b.	Allen County Water District	
	Bond Funds	150,000
Anderson County		
c.	Anderson County Park	
	Bond Funds	500,000
d.	Lawrenceburg Library Project	
	Bond Funds	350,000
Ballard County		
e.	Ballard County Volunteer Fire Department	
	Bond Funds	50,000
f.	Bandana Park	
	General Fund	5,000
g.	Infrastructure Improvement and Construction of Spec. Building at Wickliffe	
	Bond Funds	450,000
Barren County		
h.	Glasgow Parks Department	
	Bond Funds	50,000

i.	Highland Games		
	General Fund	100,000	
j.	Hiseville City		
	General Fund	25,000	
k.	Park City Park		
	Bond Funds	25,000	
Bath County			
l.	Bath County Water Project Extension		
	Bond Funds	50,000	
m.	Flat Creek/Sharpsburg Water Project		
	Bond Funds	50,000	
n.	Pendleton Branch Water Project		
	Bond Funds	50,000	
o.	Preston Sewer Project		
	Bond Funds	150,000	
Bourbon County			
p.	Ball Fields		
	Bond Funds	75,000	
q.	Bourbon County Fire Gates Numbers		
	Bond Funds	74,000	
r.	Centerhill/Hutchinson Volunteer Fire Department		
	Bond Funds	80,000	
s.	Centerville Septic System		
	Bond Funds	98,000	
t.	Farmers' Market Building		
	Bond Funds	178,000	
u.	Hazardous Materials Cleanup		
	General Fund	50,000	
v.	Little Rock Water Lines		
	Bond Funds	64,000	
w.	Ruddles Mill Water Lines		
	Bond Funds	68,000	
x.	Volunteer Fire Departments		
	Bond Funds	313,000	
Boyd County			
y.	Ashland National Little League Project		
	General Fund	75,000	
z.	Boyd County Parks and Recreation		
	Bond Funds	90,000	
aa.	Boyd County Volunteer Fire Departments		
	Bond Funds	90,000	
ab.	Catlettsburg Baseball Field		
	Bond Funds	25,000	
ac.	Highlands Museum		
	Bond Funds	200,000	
ad.	Summer Motion		
	General Fund	10,000	10,000
Boyle County			

ae.	Millennium Park	
	Bond Funds	475,000
af.	Wilderness Trace Child Development Center	
	Bond Funds	50,000
Bracken County		
ag.	Bracken County Water Lines	
	Bond Funds	30,000
ah.	Germantown Fire Department	
	Bond Funds	100,000
ai.	City of Brooksville - City Swimming Pool Renovations to be matched locally	
	Bond Funds	40,000
Caldwell County		
aj.	Caldwell County Airport Expansion	
	Bond Funds	75,000
ak.	Caldwell County Historical Society/Amoss House Project	
	Bond Funds	9,000
al.	Caldwell County Senior Citizens Building	
	Bond Funds	150,000
am.	Caldwell County/Princeton Water District	
	Bond Funds	240,000
an.	Caldwell EMS Ambulance	
	Bond Funds	65,000
ao.	Fredonia Fire Department/Jaws of Life	
	Bond Funds	11,000
Calloway County		
ap.	East Calloway County Water Extension	
	Bond Funds	100,000
aq.	Emergency County Road Improvement	
	Bond Funds	50,000
ar.	Hazel Fire Department	
	Bond Funds	50,000
as.	Murray/Calloway County Fire and Rescue	
	Bond Funds	150,000
at.	Murray/Calloway County Industrial Development Authority	
	Bond Funds	500,000
au.	Murray/Calloway County Parks Improvement	
	Bond Funds	150,000
Campbell County		
av.	Bellevue Community Center	
	Bond Funds	500,000
aw.	Dayton Community Center	
	Bond Funds	500,000
ax.	L & N Bridge - Newport	
	Bond Funds	4,000,000
Carlisle County		
ay.	Volunteer Fire Department	
	Bond Funds	50,000

Casey County		
az.	Casey County Jail	
	Bond Funds	500,000
Clay County		
ba.	911 Center	
	Bond Funds	50,000
bb.	Burchell Softball Little League	
	Bond Funds	25,000
bc.	Burning Springs	
	Bond Funds	25,000
bd.	Clay County Community Center/Land Acquisition	
	Bond Funds	250,000
be.	Clay County Historical Society	
	Bond Funds	15,000
bf.	Clay County Library	
	Bond Funds	10,000
bg.	Downtown Manchester	
	Bond Funds	175,000
bh.	Fire Department	
	Bond Funds	50,000
bi.	Manchester Civic/Education Center	
	Bond Funds	275,000
bj.	Manchester Recreation	
	Bond Funds	25,000
bk.	Manchester Water and Waste	
	Bond Funds	300,000
bl.	Manchester Young Women Club	
	Bond Funds	25,000
bm.	Senior Citizens	
	Bond Funds	25,000
Crittenden County		
bn.	Crittenden County Fire and Rescue Departments	
	Bond Funds	280,000
bo.	Crittenden County/Marion Park	
	Bond Funds	30,000
bp.	Marion Sewer Project	
	Bond Funds	40,000
Daviess County		
bq.	English Park Docking Facility	
	Bond Funds	1,300,000
br.	Shelton Freedom Memorial Commission	
	Bond Funds	50,000
Edmonson County		
bs.	Brownsville Natural Gas Line	
	Bond Funds	125,000
bt.	Edmonson County Environmental Study	
	General Fund	50,000
bu.	Edmonson County Parks Improvement	

	Bond Funds	100,000	
Elliott County			
bv.	Elliott County Board of Education/Pool Project		
	Bond Funds	750,000	
bw.	Elliott County Public Library		
	General Fund	25,000	
bx.	Elliott County School Board/Playground		
	Bond Funds	50,000	
by.	Sandy Hook Beautification Project		
	General Fund	25,000	25,000
bz.	Elliot County Ambulance Service - Equipment and Operating		
	General Fund	25,000	
ca.	Volunteer Fire Departments		
	Bond Funds	100,000	
Estill County			
cb.	Sewer System Upgrade		
	Bond Funds	400,000	
Floyd County			
cc.	Prestonsburg Development Project		
	Bond Funds	3,000,000	
Fulton County			
cd.	Fulton County Volunteer Fire Department		
	Bond Funds	50,000	
ce.	Hickman/Fulton County Riverport		
	Bond Funds	450,000	
Gallatin County			
cf.	Water Line Extension		
	Bond Funds	250,000	
Grant County			
cg.	Grant County Public Library		
	Bond Funds	750,000	
ch.	Grant County Rural Water Extensions		
	Bond Funds	250,000	
Graves County			
ci.	Graves County Municipal Building		
	Bond Funds	250,000	
cj.	Graves County Volunteer Fire Department		
	Bond Funds	150,000	
ck.	Mayfield/Graves County Airport		
	Bond Funds	100,000	
cl.	Mayfield/Graves County Parks Association		
	Bond Funds	125,000	
cm.	Mayfield/Graves Youth Soccer		
	Bond Funds	125,000	
cn.	North Graves Sanitary Sewer Project		
	Bond Funds	400,000	
Green County			

co.	Fire and Rescue Building - Greensburg	
	Bond Funds	50,000
cp.	Green County Water	
	Bond Funds	225,000
Hardin County		
cq.	Adult Day Rehabilitation Program Facility	
	Bond Funds	75,000
cr.	After-school and Recreational Programs - Upton	
	General Fund	75,000
cs.	Annual "Golden Armor Festival"	
	General Fund	25,000
ct.	Challenger Learning Center	
	Bond Funds	360,000
cu.	Chamber Meeting and Exhibition Room	
	Bond Funds	25,000
cv.	City Hall Improvement, Vine Grove	
	Bond Funds	50,000
cw.	Community Center, Vine Grove	
	Bond Funds	300,000
cx.	Duvall Softball/Baseball Park	
	General Fund	5,000
cy.	Elizabethtown Community College	
	General Fund	40,000
cz.	Fire Department Rescue Truck and Facility Renovation	
	Bond Funds	50,000
da.	Hardin County Supported Living Program	
	General Fund	300,000
db.	Helping Hand Organization	
	Bond Funds	25,000
dc.	Kids Voting Program of Hardin County	
	General Fund	50,000
dd.	Mobile Command Post for Fire and Police Department	
	Bond Funds	50,000
de.	New Hope Missionary Baptist Church	
	Bond Funds	25,000
df.	One Four Wheel-Drive Police Vehicle	
	Bond Funds	25,000
dg.	Playground Equipment for Woodland Elementary	
	Bond Funds	25,000
dh.	Radcliff City Park Land Purchase	
	Bond Funds	50,000
di.	Rape Crisis Center	
	General Fund	70,000
dj.	Saunder Springs	
	Bond Funds	20,000
dk.	Sidewalks for Cecilia	
	Bond Funds	100,000
dl.	Sister City Program	

	General Fund	5,000
dm.	Veterans Programs	
	General Fund	5,000
dn.	Volunteer Fire Departments	
	Bond Funds	390,000
do.	YMCA Feasibility Study	
	General Fund	20,000
Harlan County		
dp.	Tri-City Clinic (Appalachian Regional Hospital) Cumberland	
	Bond Funds	500,000
Hart County		
dq.	Civil War Battlefield Project	
	Bond Funds	100,000
dr.	Hart County Fire Departments	
	Bond Funds	300,000
Henderson County		
ds.	City of Henderson Building Purchase	
	Bond Funds	1,500,000
Henry County		
dt.	Henry County Disaster and Emergency Services Office Building	
	Bond Funds	150,000
Hickman County		
du.	Hickman County Volunteer Fire Department	
	Bond Funds	50,000
Hopkins County		
dv.	Dawson Springs Swimming Pool	
	Bond Funds	650,000
Jefferson County		
dw.	Cardinal Park	
	Bond Funds	350,000
dx.	Exploited Children Help Organization (ECHO)	
	General Fund	9,000
dy.	Home of the Innocents	
	Bond Funds	7,000,000
dz.	Iroquois Amphitheatre	
	Bond Funds	4,600,000
ea.	Louisville Oral School	
	Bond Funds	1,000,000
eb.	Neighborhood House	
	Bond Funds	700,000
ec.	Presbyterian Community Center	
	Bond Funds	300,000
ed.	Project for Women	
	General Fund	25,000
ee.	St. Williams Center	
	General Fund	200,000

ef.	Summerbridge		
	General Fund	150,000	
eg.	Visually Impaired Preschool		
	General Fund	100,000	
Jessamine County			
eh.	Jessamine County Park and Aquatic Center		
	Bond Funds	950,000	
ei.	Roy Peterson Study Center		
	Bond Funds	50,000	
Kenton County			
ej.	Covington Youth Sports Complex		
	Bond Funds	200,000	
ek.	Independence City Park		
	Bond Funds	200,000	
el.	Taylor Mill Pride Park		
	Bond Funds	150,000	
Larue County			
em.	Buffalo Fire Department		
	Bond Funds	65,000	
en.	Hodgenville Fire Department		
	Bond Funds	65,000	
eo.	Magnolia Fire Department		
	Bond Funds	65,000	
Laurel County			
ep.	Laurel County Water		
	Bond Funds	250,000	
Lawrence County			
eq.	Blaine Community Center and Park Enhancement		
	Bond Funds	110,000	
er.	Lawrence County Fiscal Court Stella/Moore Rec. Complex		
	Bond Funds	75,000	
es.	Lawrence County School System Enhancement		
	Bond Funds	160,000	
et.	Lawrence County Volunteer Fire Department		
	Bond Funds	105,000	
eu.	Louisa Beautification and September Festival		
	General Fund	25,000	25,000
Lee County			
ev.	City of Beattyville		
	Bond Funds	150,000	
ew.	Lee County Airport Authority		
	Bond Funds	150,000	
ex.	Lee County Water and Sewer Expansion		
	Bond Funds	200,000	
Leslie County			
ey.	City of Hyden		
	Bond Funds	50,000	
ez.	Leslie County Board of Education		

	General Fund	110,000
fa.	Leslie Senior Citizens	
	Bond Funds	25,000
fb.	Leslie Vocational Tech Center	
	General Fund	17,000
fc.	Leslie Volunteer Fire Department	
	Bond Funds	50,000
Letcher County		
fd.	Letcher County Water	
	Bond Funds	250,000
Livingston County		
fe.	Crittenden/Livingston Water District	
	Bond Funds	100,000
ff.	Grand River Water District	
	Bond Funds	50,000
fg.	Livingston County Fire Districts	
	Bond Funds	60,000
fh.	Livingston County Recreational Complex and Boat Ramps	
	Bond Funds	40,000
fi.	Livingston Convalescence Center	
	Bond Funds	35,000
fj.	Livingston EMS Ambulance	
	Bond Funds	65,000
Madison County		
fk.	Richmond Area Arts Center	
	Bond Funds	200,000
Magoffin County		
fl.	Magoffin County Administrative Office Building	
	Bond Funds	300,000
fm.	Magoffin County Community Program	
	Bond Funds	20,000
fn.	Magoffin Volunteer Fire Department	
	Bond Funds	80,000
fo.	Senior Citizens	
	Bond Funds	50,000
fp.	Senior Citizens Vehicles	
	Bond Funds	50,000
Marion County		
fq.	Emergency Service Center	
	Bond Funds	500,000
fr.	Kedron Bridge	
	Bond Funds	500,000
Martin County		
fs.	Martin County Rescue Squad	
	Bond Funds	50,000
Mason County		
ft.	Maysville Convention Center	
	Bond Funds	450,000

fu.	Maysville Underground Railroad Building Renovation	
	Bond Funds	150,000
McLean County		
fv.	Island Wooden Bridge Park	
	Bond Funds	50,000
fw.	Livermore River Park	
	Bond Funds	50,000
Meade County		
fx.	Tourism and Economic Development	
	General Fund	250,000
Mercer County		
fy.	Burgin Drinking Water Enhancement	
	Bond Funds	100,000
fz.	Mercer County Senior Citizen Center	
	Bond Funds	75,000
ga.	Mercer County Park Improvements	
	Bond Funds	800,000
Metcalfe County		
gb.	City of Edmonton	
	Bond Funds	400,000
Montgomery County		
gc.	Community Center Funding	
	Bond Funds	2,000,000
Nelson County		
gd.	Wickland Mansion Project	
	Bond Funds	500,000
Nicholas County		
ge.	Dixie Highway Water Lines	
	Bond Funds	60,000
gf.	Johnson Road Water Lines	
	Bond Funds	60,000
gg.	Milltown Water Project	
	Bond Funds	65,000
gh.	Nicholas County Health Department	
	Bond Funds	250,000
Ohio County		
gi.	Ohio County Water Funds	
	Bond Funds	250,000
Owen County		
gj.	Road Barn and Ambulance Center	
	Bond Funds	225,000
Pendleton County		
gk.	Pendleton County Civic Center	
	Bond Funds	250,000
gl.	Sewer District Project	
	Bond Funds	250,000
Pike County		
gm.	Ballfork and Mayfork Water	

	Bond Funds	127,000
Powell County		
gn.	Powell County Ambulance Service	
	Bond Funds	500,000
Robertson County		
go.	Mt. Olivet Police Department	
	Bond Funds	10,000
gp.	Robertson County Life Squad	
	Bond Funds	65,000
gq.	Robertson County Public Library	
	Bond Funds	175,000
Rowan County		
gr.	City of Lake View Heights	
	Bond Funds	75,000
gs.	Rowan Regional Industrial Park Fire Department	
	Bond Funds	400,000
Scott County		
gt.	Buffalo Spring Park	
	Bond Funds	80,000
gu.	Cultural Arts Center	
	Bond Funds	55,000
gv.	Depot Restoration	
	Bond Funds	40,000
gw.	Scott County Reservoir	
	Bond Funds	825,000
Simpson County		
gx.	Franklin/Simpson Industrial Park Development	
	Bond Funds	750,000
gy.	Goodnight Memorial Library	
	Bond Funds	250,000
STATEWIDE PROJECTS		
gz.	World War II Memorial	
	Bond Funds	312,000
Trigg County		
ha.	Industrial Park and Water Sewer Improvements	
	Bond Funds	200,000
hb.	Trigg Rural Fire Department	
	Bond Funds	50,000
Union County		
hc.	21st Century Training Classroom	
	Bond Funds	500,000
hd.	Union County Fairgrounds Convention Center	
	Bond Funds	500,000
Warren County		
he.	Bowling Green Sidewalks	
	Bond Funds	30,000
hf.	Gott Community Center, Inc.	
	Bond Funds	15,000

hg.	Oakland Street Repairs and Paving	
	Bond Funds	100,000
hh.	Plum Springs Street Improvements	
	Bond Funds	50,000
hi.	Smiths Grove City Hall Expansion	
	Bond Funds	75,000
Washington County		
hj.	Mackville Community Park	
	Bond Funds	145,000
hk.	Willisburg Community Park	
	Bond Funds	305,000
Webster County		
hl.	Sebree Spring Park Swimming	
	Bond Funds	50,000
Wolfe County		
hm.	Campton Library	
	Bond Funds	175,000
hn.	City of Campton Equipment Purchase	
	Bond Funds	50,000
ho.	Volunteer Fire Department	
	Bond Funds	50,000
hp.	Water Plant Renovation	
	Bond Funds	175,000
hq.	West Campton Water Pump Station	
	Bond Funds	50,000
Woodford County		
hr.	Community Center - Versailles	
	Bond Funds	1,000,000
2.	EDUCATION, ARTS, AND HUMANITIES CABINET	
Budget Unit	Office of the Secretary	2000-01
McCracken County		
a.	Four Rivers Center	
	Bond Funds	5,750,000
Warren County		
b.	Capitol Arts Center-Bowling Green	
	Bond Funds	6,750,000
3.	EDUCATION	
Budget Unit	Management Support Services	2000-01
Lincoln County		
a.	Lincoln County Technical Center	
	Bond Funds	2,500,000
4.	ECONOMIC DEVELOPMENT CABINET	
Budget Unit	Economic Development	2000-01
Hardin County		
a.	Radcliff/Vine Grove Industrial Park	
	Bond Funds	1,000,000
Jefferson County		
b.	Louisville Waterfront Development Corporation Phase II	

	Bond Funds	12,500,000	
c.	Louisville Medical Center Development		
	Bond Funds	5,000,000	
5.	FINANCE AND ADMINISTRATION CABINET		
Budget Unit	General Administration	2000-01	
Adair County			
a.	Adair County Water Development		
	Bond Funds	250,000	
Allen County			
b.	Allen County Fiscal Court - Water Line Extension for Agricultural, Business and Residential Use		
	Bond Funds	125,000	
c.	Allen County Fiscal Court Facilities Improvement and Equipment at each of six Rural Volunteer Fire Departments		
	Bond Funds	150,000	
d.	Allen County Schools Vocational Center - New Computer Lab		
	Bond Funds	75,000	
Anderson County			
e.	Anderson County Water Projects		
	Bond Funds	350,000	
Barren County			
f.	Glasgow Sewer and Water		
	Bond Funds	700,000	
Boyd County			
g.	Ashland School System, Boyd School System, and Fairview Independent School System - Athletic Facilities Improvements and Enhancements ($100,000 each)		
	Bond Funds	300,000	
h.	Boyd County Fiscal Court - Boyd County Fair Operations and Improvements		
	General Fund	25,000	25,000
Boyle County			
i.	Hub Frankel Building		
	Bond Funds	1,000,000	
Bullitt County			
j.	Bullitt County Water and Sewer Line Expansion		
	Bond Funds	1,000,000	
k.	Brooks Sewer Plants		
	Bond Funds	300,000	
Butler County			
l.	Butler County Water Project		
	Bond Funds	250,000	
Campbell County			
m.	City of Bellevue Fire Department		
	General Fund	50,000	
n.	City of Dayton Fire Department		

		General Fund	50,000
o.	City of Newport Fire Department	General Fund	75,000
p.	City of Southgate Fire Department	General Fund	50,000
q.	City of Wilder Fire Department	General Fund	50,000
r.	City of Woodlawn Fire Department	General Fund	25,000
Carlisle County			
s.	Carlisle County Sewer Project	Bond Funds	450,000
Carter County			
t.	Carter County Water Project	Bond Funds	1,000,000
Casey County			
u.	Casey County Senior Citizens Building	Bond Funds	220,000
v.	Casey County Police Equipment	Bond Funds	62,000
Christian County			
w.	Christian County Convention Center	Bond Funds	6,750,000
Clark County			
x.	State Office Building	Bond Funds	1,000,000
y.	Clark County Tourism, Recreation and Convention Commission	Bond Funds	25,000
z.	Winchester Civil War Site	Bond Funds	25,000
aa.	Clark County School Extra Curricular Activities	Bond Funds	10,000
ab.	Clark County School Board Technology Improvements	Bond Funds	30,000
ac.	Clark County Heritage Commission - Lower Howard's Creek Project	Bond Funds	25,000
ad.	College Park Gym Renovation - Phase I First Floor Construction	Bond Funds	1,000,000
Clay County			
ae.	Campbell - Reid Alternative School	Bond Funds	250,000
af.	Clay County High School - Youth Services Dropout Program	Bond Funds	50,000

ag.	Clay County Learning Outreach Program		
	Bond Funds	50,000	
Estill County			
ah.	City of Ravenna - Budget Shortfall		
	General Fund	20,000	
Fayette County			
ai.	Convention Center/Rupp Arena		
	Bond Funds	15,000,000	
aj.	Johnson Community Center		
	Bond Funds	1,700,000	
ak.	Kentucky Aviation Museum		
	Bond Funds	300,000	
al.	Bryan Station High School - Wellness/Fitness		
	Bond Funds	100,000	
am.	Northern Elementary - Creative Playground		
	Bond Funds	125,000	
an.	Lexington/Fayette County Parks		
	Bond Funds	1,000,000	
Fleming County			
ao.	Water Resources and Land Acquisition		
	Bond Funds	1,000,000	
Floyd County			
ap.	Jenny Wiley Scenic Club - Wave Reduction Barrier at Dewey Lake		
	General Fund	50,000	
aq.	Samuel May House Enhancements		
	General Fund	50,000	
ar.	Mountain Arts Center - Pay Off Bonds		
	General Fund	2,000,000	
as.	Motor Vehicle Commission - New Inspector for Car Lots for East Kentucky		
	General Fund	50,000	50,000
at.	Jenny Wiley - Construction and Dredging of new Boat Ramp		
	Bond Funds	500,000	
au.	Martin Community Center - Construction		
	Bond Funds	929,500	
av.	Martin Community Center - Operations		
	General Fund		496,500
Franklin County			
aw.	Holmes Street Drainage Project		
	Bond Funds	3,000,000	
Garrard County			
ax.	City of Lancaster-Garrard County Garden Club Beautification Project		
	General Fund	30,000	
ay.	Lancaster Rural Water Intake		
	Bond Funds	500,000	

az.	Lancaster Ball Park		
	Bond Funds	25,000	
ba.	City of Lancaster		
	Bond Funds	200,000	
Graves County			
bb.	Graves County Board of Education - Recreational Enhancements		
	General Fund	50,000	
bc.	Women's Group Home		
	Bond Funds	275,000	
Green County			
bd.	Green County Water Line Extensions		
	Bond Funds	500,000	
Hancock County			
be.	Hancock County Fire and Rescue Building		
	Bond Funds	50,000	
Hardin County			
bf.	Water System Improvements for Rineyville Area		
	Bond Funds	1,200,000	
Harlan County			
bg.	Blanton Forest Acquisition		
	General Fund	300,000	300,000
bh.	Harlan County Jail Design and Construction		
	Bond Funds	500,000	
bi.	Harlan County Garage		
	Bond Funds	200,000	
bj.	Black Mountain Water District - Water Line Extension		
	Bond Funds	500,000	
bk.	Cawood Water District-Extend Water Lines from Ross Point to Letcher County		
	Bond Funds	500,000	
bl.	Harlan County & City of Cumberland jointly to extend water lines from Ross Point to Letcher County		
	Bond Funds	500,000	
bm.	Green Hill Water District-Water Line Extension - Isaacs Creek, Big Low Road, and Little Shephard Trail		
	Bond Funds	500,000	
Harrison County			
bn.	Industrial Park Road		
	Bond Funds	1,000,000	
Hart County			
bo.	Hart County Waterlines		
	Bond Funds	500,000	
bp.	Hart County Historic Thomas House		
	Bond Funds	100,000	
Henry County			
bq.	Henry County Water Line Extensions/Campbellsburg Sewer Project		

	Bond Funds	350,000	
Jefferson County			
br.	Office of Technology and Information - Two Pilot Projects		
	Bond Funds	250,000	
bs.	Lil Angels Child Care Center Expansion		
	Bond Funds	100,000	
bt.	West Louisville Talent Education Center - Musical Equipment		
	Bond Funds	50,000	
bu.	Kentucky Autism Center U of L		
	General Fund	250,000	250,000
bv.	Rosenberger House Renovation		
	Bond Funds	100,000	
bw.	Farnsley Kaufman House Renovation		
	Bond Funds	115,000	
bx.	Belle of Louisville-Operations, Maintenance, Equipment		
	General Fund	200,000	200,000
by.	Project Women GED		
	General Fund	25,000	25,000
bz.	House of Ruth		
	General Fund	25,000	25,000
ca.	Wilder Park Neighborhood Association - Roofing/Parking Maintenance		
	Bond Funds	25,000	
cb.	St. John Vianney Community Day Care - Interpreter Pool		
	General Fund		40,000
cc.	St. John Vianney Community Day Care Maintenance Pool		
	Bond Funds	40,000	
cd.	Harbor House Building Funds		
	Bond Funds	100,000	
ce.	City of Shively Community Center		
	Bond Funds	300,000	
cf.	City of Shively Fire Trucks		
	Bond Funds	100,000	
cg.	Neighborhood Housing Services		
	Bond Funds	58,000	
ch.	Kentucky One Church/One Child		
	Bond Funds	100,000	
ci.	Kling Center Community Outreach		
	General Fund	100,000	100,000
Johnson County			
cj.	Johnson County Water Lines		
	Bond Funds	500,000	
Kenton County			

ck.	Edgewood Sidewalk Turkey Foot Road	
	Bond Funds	10,000
cl.	Edgewood School Crossing Lights	
	Bond Funds	5,000
cm.	Edgewood Veterans Memorial	
	Bond Funds	15,000
cn.	Crestview Hills-Turn Lane Turkey Foot	
	Bond Funds	100,000
co.	Crestview Hills-Sidewalks Dixie Highway	
	Bond Funds	100,000
cp.	Villa Hills Sidewalks-Collins Road	
	Bond Funds	100,000
cq.	Ft. Wright Sidewalks - Highland Avenue	
	Bond Funds	35,000
cr.	Ft. Wright Amsterdam Road Street Repair	
	Bond Funds	100,000
cs.	Lakeside Park Sidewalk - Dixie Highway	
	Bond Funds	20,000
ct.	Lakeside Park Street Repair	
	Bond Funds	20,000
cu.	Ft. Mitchell Sidewalks - Royal Drive	
	Bond Funds	50,000
cv.	Ft. Mitchell Park at Crescent	
	Bond Funds	150,000
cw.	Crescent Springs - Basketball Court	
	Bond Funds	15,000
cx.	Crescent Springs - Cruler Avenue	
	Bond Funds	40,000
cy.	Crescent Springs Periwinkle Street	
	Bond Funds	28,000
cz.	Crescent Springs Drain Sewers	
	Bond Funds	10,000
da.	Park Hills - Notre Dame to St. Joseph-Sidewalks	
	Bond Funds	35,000
db.	Park Hils - Covington Catholic to Arlington - Sidewalks	
	Bond Funds	35,000
Knott County		
dc.	Hindman City Hall	
	Bond Funds	100,000
dd.	Hindman Water Tank	
	Bond Funds	200,000
de.	Troublesome Creek Sewer	
	Bond Funds	600,000
Knox County		
df.	Water Project - Barbourville Water and Electric - Johnson Hollow	
	Bond Funds	10,000

dg.	Water Project - Barbourville Water and Electric - Hammons Fork	
	Bond Funds	20,000
dh.	Water Project - Barbourville Water and Electric - Turkey Creek	
	Bond Funds	60,000
di.	Water Project - Barbourville Water and Electric - Emanuel	
	Bond Funds	10,000
dj.	Water Project - Barbourville Water and Electric - Shephen Trace	
	Bond Funds	75,000
dk.	Water Project-Barbourville Water and Electric - Hunting Shirt	
	Bond Funds	5,000
dl.	Water Project-Barbourville Water and Electric - N.HWYII - Main Line Extension	
	Bond Funds	10,000
dm.	Water Project - Corbin City Water - Hart Road	
	Bond Funds	40,000
dn.	Water Project - East Knox Water - Buckeye	
	Bond Funds	10,000
do.	Water Project - East Knox Water - Macro Branch	
	Bond Funds	7,500
dp.	Water Project - East Knox Water - David Branch	
	Bond Funds	7,500
dq.	Water Project - East Knox Water - Morse Creek	
	Bond Funds	10,000
dr.	Water Project - East Knox Water - Rickett Branch	
	Bond Funds	7,500
ds.	Water Project - East Knox Water - Goodin Branch	
	Bond Funds	20,000
dt.	Water Project - East Knox Water - Lick Branch	
	Bond Funds	10,000
du.	Water Project - East Knox Water - Stoney Fork	
	Bond Funds	20,000
dv.	Water Project - East Knox Water - Laure Branch	
	Bond Funds	5,000
dw.	Water Project - East Knox Water - Big Creek 718	
	Bond Funds	10,000
dx.	Water Project - East Knox Water - J. Goodin Branch	
	Bond Funds	6,000
dy.	Water Project - East Knox Water - Trace Branch	
	Bond Funds	6,500
dz.	Knox County Health Department	
	Bond Funds	50,000
ea.	Knox County Ambulance Service-Purchase Ambulance	
	Bond Funds	50,000

eb.	Knox County EOC Community Action	
	Bond Funds	20,000
ec.	Knox County EOC Community Action -	
	Emergency Fund	
	Service for purchase of computer	
	General Fund	5,000
ed.	Fire Department-Divide equally among eight	
	Fire Departments	
	General Fund	50,000
Larue County		
ee.	Waterline Extension	
	Bond Funds	400,000
Laurel County		
ef.	Laurel County Senior Citizens	
	Bond Funds	25,000
eg.	Laurel County Fire Department	
	Bond Funds	50,000
eh.	Laurel County Drop Out	
	Bond Funds	50,000
Leslie County		
ei.	Leslie County School Board Extra Curricular Activities	
	Bond Funds	30,000
Letcher County		
ej.	Community Park at Ashcamp	
	Bond Funds	100,000
ek.	Volunteer Fire Departments	
	Bond Funds	300,000
el.	Public Library in Jenkins	
	Bond Funds	200,000
em.	Water Line Extensions for Whitesburg	
	Bond Funds	500,000
Lewis County		
en.	Concord Water Line Extension	
	Bond Funds	350,000
eo.	Lewis County Water Project	
	Bond Funds	100,000
Logan County		
ep.	Logan Todd Water Commission Project	
	Bond Funds	500,000
Lyon County		
eq.	Lyon County Water Projects	
	Bond Funds	200,000
Madison County		
er.	Ducannon Lane Water Project	
	Bond Funds	2,400,000
es.	Madison County Rural Sanitary Sewer	
	Bond Funds	2,400,000
Marion County		

et.	Police Building	
	Bond Funds	150,000
Martin County		
eu.	Martin County Water Projects	
	Bond Funds	450,000
Meade County		
ev.	Expansion Meade County Water System	
	Bond Funds	500,000
ew.	Meade County Ambulance Service Emergency Medical Technician Building	
	Bond Funds	100,000
ex.	Meade Olin Park Improvements, Concession Stands Locker rooms, Bathroom Facilities	
	Bond Funds	100,000
ey.	Meade County Industrial Park Development of 24 Acre site and Building	
	Bond Funds	250,000
ez.	City of West Point - Develop and Promote Tourism and Economic Development Commission	
	General Fund	50,000
fa.	Meade County Public Library - Installation & Upgrade of Technical Information Services	
	Bond Funds	50,000
fb.	City of Brandenburg - Completion of Water Treatment Plant	
	Bond Funds	200,000
Menifee County		
fc.	Frenchurg & Menifee County Regional Water Study	
	General Fund	50,000
fd.	Regional Water and Sewer Project	
	Bond Funds	500,000
Mercer County		
fe.	Boone Drama	
	Bond Funds	75,000
ff.	Mercer County Fair Board - Barn Replacement	
	Bond Funds	75,000
Montgomery County		
fg.	Montgomery and Morgan Mid School Tech Project	
	Bond Funds	140,000
Morgan County		
fh.	Morgan County Bridge Project	
	Bond Funds	200,000
fi.	Morgan County Water	
	Bond Funds	800,000
Muhlenberg County		
fj.	City of Greenville Sewer Plant Expansion	
	Bond Funds	500,000
fk.	Muhlenberg County Water District	

	Bond Funds	100,000
fl.	Powderly Sewer Collection System	
	Bond Funds	200,000
fm.	Lake Malone State Park-Campsites	
	Bond Funds	20,000
Nelson County		
fn.	Nelson County Waterlines	
	Bond Funds	400,000
fo.	Water and Sewer Line Extensions to Owen County High School	
	Bond Funds	275,000
Perry County		
fp.	Buckhorn's Children Foundation - Displace Workers Training Center	
	General Fund	50,000
fq.	Southeast Kentucky - Connie Mack program	
	Bond Funds	20,000
fr.	Perry County Board for Appalachian Regional Theatre Society	
	Bond Funds	15,000
fs.	City of Vicco Water Projects	
	Bond Funds	150,000
ft.	Viper Volunteer Fire Department Water Projects	
	Bond Funds	100,000
fu.	Perry County Board Extracurricular Activities	
	Bond Funds	150,000
fv.	Hazard City Schools Extracurricular Activities	
	Bond Funds	50,000
fw.	Perry Central High School - Resource Parking Lot	
	Bond Funds	50,000
fx.	Challenger Learning Center of Kentucky Board	
	Bond Funds	200,000
fy.	Hazard City Schools - Renovation of Roy G. Eversole Gym	
	Bond Funds	50,000
Pike County		
fz.	Hardy Park - Renovation and Maintenance	
	General Fund	60,000
ga.	Straight Hollow Water	
	Bond Funds	110,000
gb.	Stone Cold Water	
	Bond Funds	86,000
gc.	South Williamson Sewer Project	
	Bond Funds	200,000
gd.	Eastern Kentucky Exposition Center	
	Bond Funds	6,900,000
Rockcastle County		
ge.	Rockcastle County Technology Center	
	Bond Funds	25,000

Rowan County			
gf.	West Liberty Technology School		
	General Fund	440,000	440,000
gg.	Morehead City Water Expansion		
	Bond Funds	525,000	
Simpson County			
gh.	Franklin/Simpson Technical Center		
	Bond Funds	1,000,000	
Statewide			
gi.	Rails to Trails Program		
	General Fund	247,000	175,500
gj.	Telemedicine (HB 177)		
	General Fund	500,000	600,000
gk.	Commission on Small Business Advocacy (HB 588)		
	General Fund	125,000	175,000
gl.	County Livestock Fund (HB 947)		
	General Fund	45,000	45,000
gm.	Aquaculture Infrastructure Components		
	Bond Funds	2,000,000	2,000,000
gn.	Various State Parks-Technology Upgrades		
	Bond Funds	588,000	
Todd County			
go.	Logan Todd Regional Water Project		
	Bond Funds	500,000	
Union County			
gp.	Union County Agricultural Fair - Arnold Arena and Convention Center Completion		
	Bond Funds	900,000	
Warren County			
gq.	National Corvette Museum - Roof for Outdoor Stage		
	Bond Funds	50,000	
gr.	L&N Depot Restoration and Bowling Green Public Library Joint Effort		
	Bond Funds	400,000	
gs.	Warren County - Additional Community Projects		
	Bond Funds	250,000	
gt.	Boyce Community Center		
	Bond Funds	10,000	
Washington County			
gu.	St. Catharine College Water Lines		
	Bond Funds	300,000	
Whitley County			
gv.	Corbin Tech Center - Design		
	Bond Funds	100,000	
gw.	Whitley County Water		
	Bond Funds	1,000,000	
gx.	Whitley County 911 Tower Replacement		
	Bond Funds	10,000	

Woodford County			
gy.	Bluegrass Railroad Museum-Bridgework, Rail Work, Signs, Miscellaneous		
	Bond Funds		250,000
gz.	Versailles Water Project		
	Bond Funds		1,000,000
ga.	Woodford County Hospital District Board		
	General Fund	500,000	

6. POSTSECONDARY EDUCATION

Budget Unit	Kentucky Community and Technical College System (KCTCS)	2000-01
Clinton County		
a.	KCTCS Technical College	
	Bond Funds	2,000,000
Daviess County		
b.	Advanced Technology Center Study	
	Bond Funds	500,000
Floyd County		
c.	East Kentucky Center for Science, Math, and Technology	
	Bond Funds	1,000,000
Harlan County		
d.	Appalachian Development Center (Southeast Community College)	
	Bond Funds	500,000
Harrison County		
e.	KCTCS Education Building	
	Bond Funds	200,000
Hopkins County		
f.	Madisonville Community College Renovation	
	Bond Funds	850,000
Knott County		
g.	Knott County KCTCS Parking	
	Bond Funds	1,000,000
h.	Pedestrian Walkway	
	Bond Funds	100,000
Muhlenberg County		
i.	Muhlenberg Community College Satellite Site	
	Bond Funds	700,000
Perry County		
j.	Center for Rural Health	
	Bond Funds	4,000,000

7. TOURISM DEVELOPMENT CABINET

Budget Unit	Kentucky Horse Park	2000-01
Fayette County		
a.	Horse Park Infrastructure Development	
	Bond Funds	1,550,000
b.	Horse Park Water Line Extension	
	Bond Funds	1,389,000

Budget Unit	Parks	2000-01
Barren County		
c.	Barren State Park Boat Dock	
	Bond Funds	300,000
Bell County		
d.	Pine Mountain State Park Golf Course	
	Bond Funds	2,000,000
Boone County		
e.	Big Bone Lick State Park	
	Bond Funds	500,000
Boyle County		
f.	Perryville Battlefield State Park	
	Bond Funds	475,000
Cumberland County		
g.	Dale Hollow State Park-Facility	
	Bond Funds	2,150,000
Daviess County		
h.	Ben Hawes State Park Project	
	Bond Funds	1,054,800
Hickman County		
i.	Columbus/Belmont State Park Enhancement	
	Bond Funds	450,000
Larue County		
j.	Lincoln Boyhood Home	
	Bond Funds	155,000
Laurel County		
k.	Levi Jackson State Park	
	Bond Funds	250,000
Lewis County		
l.	Lewis County State Park Study	
	General Fund	50,000
Marshall County		
m.	Kentucky Dam Village State Park Marina Repair	
	Bond Funds	1,750,000
Monroe County		
n.	Old Mulkey State Park	
	Bond Funds	250,000
Nelson County		
o.	Old Bardstown Village	
	Bond Funds	100,000
Spencer County		
p.	Taylorsville State Park Enhancement	
	Bond Funds	250,000
Budget Unit	Kentucky Fair and Exposition Center	2000-01
Jefferson County		
q.	Kentucky State Fair and Exposition Center	
	Bond Funds	4,000,000
Budget Unit	Office of the Secretary	2000-01

Daviess County			
r.	Area Museum		
	Bond Funds	1,270,000	
s.	Museum of Fine Art		
	Bond Funds	600,000	
Jefferson County			
t.	African-American Heritage Museum		
	Bond Funds	3,000,000	
u.	Muhammad Ali Center		
	Bond Funds	10,000,000	
Madison County			
v.	Berea Artisans Center		
	Bond Funds	1,400,000	
Rockcastle County			
w.	Country Music Museum		
	Bond Funds	1,000,000	
8.	WORKFORCE DEVELOPMENT CABINET		
Budget Unit	Technical Education	2000-01	
a.	Area Technical Center Equipment		
	Bond Funds	2,998,800	
9.	JUDICIAL BRACH		
Budget Unit	Court of Justice		
Local Facility Fund			
a.	Casey County Courthouse-Use Allowance		
	General Fund	547,000	547,000
b.	Barren County Courthouse		
	Bond Funds	500,000	
c.	Bath County Courthouse Renovation		
	Bond Funds	100,000	
d.	Bracken County Courthouse Elevator		
	Bond Funds	230,000	
e.	McLean Courthouse Renovation		
	Bond Funds	300,000	
f.	Trigg County Courthouse Annex		
	Bond Funds	250,000	
g.	Webster County Courthouse Renovation		
	Bond Funds	250,000	

S. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2000-2001 and fiscal year 2001-2002 in combination with prior unobligated balances in the respective single county funds. Total expenditures from this source in fiscal year 2000-2001 and fiscal year 2001-2002 shall not exceed the amounts listed for any project or any county enumerated below.

1.	GOVERNMENT OPERATIONS		
Budget Unit	Local Government	2000-01	2001-02

Bell County			
a.	Bell County Fiscal Court (County Projects)		
	Restricted Funds	650,000	
b.	City of Middlesboro Community Projects		
	Restricted Funds	450,000	
c.	Bell County Pilot Project (Senior Citizens and Disabled Miners Prescription Drug Program)		
	Restricted Funds	750,000	
d.	Bell County Industrial Foundation Industrial Park Developments		
	Restricted Funds	1,000,000	
e.	City of Pineville (City Projects)		
	Restricted Funds	250,000	
Boyd County			
f.	Boyd County Water/Sewer Projects		
	Restricted Funds	150,000	185,000
Breathitt County			
g.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	700,000	
h.	City of Jackson – Intergenerational Center		
	Restricted Funds	125,000	125,000
i.	City of Jackson – City Hall Project		
	Restricted Funds	100,000	100,000
j.	Regional Performing Arts/Instructional Center		
	Restricted Funds	100,000	100,000
k.	City of Jackson Water Treatment Plant		
	Restricted Funds	200,000	100,000
l.	County Court Clerk Computer Upgrade		
	Restricted Funds	40,000	
m.	Mt. Carmel River Launching Facility		
	Restricted Funds	50,000	
n.	Middle Kentucky River Student Headstart Bus		
	Restricted Funds	40,000	
o.	Breathitt County High School Recreation Field		
	Restricted Funds	50,000	
p.	Jackson Independent School Recreation Field		
	Restricted Funds	50,000	
Butler County			
q.	Fire Department Radios		
	Restricted Funds	110,000	
r.	Butler County Water Project		
	Restricted Funds	100,000	
Caldwell County			
s.	Debt Repayment/Existing Spec Building		
	Restricted Funds	139,500	
Carter County			
t.	Hanna Lane Water Project		

	Restricted Funds	230,000	
u.	Carter County Jail		
	Restricted Funds	213,000	
v.	Olive Hill Historical Society Museum		
	Restricted Funds	62,000	88,000
w.	Connector Road from US 60 in Olive Hill to Fire Station		
	Restricted Funds	100,000	
Christian County			
x.	Christian County Water Project		
	Restricted Funds	150,000	
Clay County			
y.	Shammrock Property		
	Restricted Funds	450,000	
z.	Clay County Civic Center		
	Restricted Funds	100,000	
aa.	Little Goose Industrial Property		
	Restricted Funds	75,000	
Daviess County			
ab.	Daviess County Park and Visitor Center		
	Restricted Funds	250,000	
Edmonson County			
ac.	Edmonson County Parks Board Improvement Project		
	Restricted Funds	13,300	
Elliott County			
ad.	Elliott County Economic Development Projects		
	Restricted Funds		150,000
ae.	Elliott County Parks and Recreation		
	Restricted Funds	90,000	
af.	County Garage Building Project		
	Restricted Funds	68,000	
Floyd County			
ag.	Floyd County Water Projects		
	Restricted Funds	450,000	500,000
ah.	Industrial Site Expansions		
	Restricted Funds	200,000	
ai.	Parks and Recreation Improvements		
	Restricted Funds	150,000	
aj.	Floyd County Courthouse Renovations		
	Restricted Funds	100,000	
ak.	Betsy Lane High School Football Field Renovations		
	Restricted Funds	100,000	
al.	Allen Central High School Football Field Renovations		
	Restricted Funds	100,000	
am.	Wayland Community Center Equipment		
	Restricted Funds	25,000	
an.	David School Equipment		

	Restricted Funds	25,000	
ao.	McDowell Flood Control Project		
	Restricted Funds	200,000	
ap.	Sugar Loaf Flood Control Project		
	Restricted Funds	40,000	
aq.	Martin Flood Control Project		
	Restricted Funds	60,000	
ar.	John M. Stumbo Community Park		
	Restricted Funds	25,000	
as.	Garth Landfill		
	Restricted Funds	50,000	
Greenup County			
at.	Pond Run Road Improvements		
	Restricted Funds	148,800	85,200
Harlan County			
au.	City of Harlan Regional Sewer		
	Restricted Funds	300,000	400,000
av.	City of Wallins Water System		
	Restricted Funds	50,000	
aw.	Cawood Water District Expansion		
	Restricted Funds	50,000	
ax.	Harlan County Fiscal Court		
	Restricted Funds	710,000	200,000
ay.	Southeast Community College Foundation – Operating for Tourism Projects		
	Restricted Funds	300,000	370,000
az.	Sunshine School – Operating for Child Care Programs		
	Restricted Funds	50,000	50,000
ba.	Tri-City Little League – Park Improvements		
	Restricted Funds	5,000	10,000
bb.	City of Wallins – Recreational Improvements		
	Restricted Funds	10,000	15,000
bc.	Center for Appalachian Development - Study		
	Restricted Funds	50,000	
bd.	Sunshine Volunteer Fire Department Equipment		
	Restricted Funds	5,000	5,000
be.	New Covenant Kitchen		
	Restricted Funds	15,000	5,000
bf.	East Kentucky Social Club – Roof		
	Restricted Funds	15,000	10,000
bg.	Benham Coal Miners Monument		
	Restricted Funds	10,000	40,000
bh.	Harlan Downtown Revitalization		
	Restricted Funds	25,000	25,000
bi.	City of Cumberland – Sewer Plant Equipment		
	Restricted Funds	5,000	10,000
bj.	Yoakum Creek Volunteer Fire Department – Renovations/Equipment		

	Restricted Funds	15,000	10,000
bk.	Pine Mountain Development Corporation – Loan Fund		
	Restricted Funds	15,000	10,000
bl.	Harlan County Industrial Development Act (IDA)		
	Restricted Funds	50,000	50,000
bm.	Cloverfork Multi-Purpose Center – Renovation		
	Restricted Funds	10,000	15,000
bn.	City of Evarts – Various Community Developments		
	Restricted Funds	10,000	15,000
bo.	City of Loyall – City Operations and Maintenance		
	Restricted Funds	10,000	15,000
bp.	Martin's Fork Volunteer Fire Department Equipment		
	Restricted Funds	5,000	5,000
bq.	Cloverfork Museum Facility – Renovation		
	Restricted Funds	5,000	5,000
br.	Harlan County Rescue Squad – Equipment		
	Restricted Funds	10,000	10,000
bs.	City of Cumberland		
	Restricted Funds	25,000	25,000
bt.	Cumberland Valley Area Development District - Cloverlick Water Study		
	Restricted Funds	15,000	10,000
bu.	Green Hill Community Park		
	Restricted Funds	20,000	20,000
bv.	City of Lynch – Various Community Developments		
	Restricted Funds	15,000	10,000
bw.	Tri-City Rescue Squad – Equipment		
	Restricted Funds	10,000	10,000
bx.	Beldsoe Volunteer Fire Department – Equipment		
	Restricted Funds	5,000	10,000
by.	Tri-City Tourist Conference Building		
	Restricted Funds	30,000	30,000
bz.	Coldiron Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ca.	City of Benham - Various Community Development Projects	15,000	10,000
cb.	City of Cumberland - Fire Department		
	Restricted Funds	5,000	10,000
cc.	Harlan County Fiscal Court - Purchase of Road Equipment		
	Restricted Funds	70,000	60,000
cd.	D.A.R.E - Purchase of New Vehicle for Harlan County School		
	Restricted Funds	20,000	10,000
ce.	Hands Across Mountain - Various Projects		
	Restricted Funds	3,000	2,000
cf.	Harlan County Senior Citizens		

	Restricted Funds	5,000	5,000
cg.	Wallins Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ch.	Evarts Fish and Game Club - Development Projects	5,000	5,000
ci.	Cloverfork Rescue Squad - Purchase of Equipment	5,000	10,000
cj.	Lower Cloverfork Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ck.	Evarts Fire Department - Purchase of Equipment	5,000	10,000
cl.	Upper Cloverfork Fire Department - Purchase of Equipment - Homes Mill		
	Restricted Funds	5,000	10,000
cm.	Harlan County Sheriff Department - Purchase of Vehicle		
	Restricted Funds	15,000	10,000
cn.	Harlan County Fiscal Court - Purchase of Equipment		
	Restricted Funds	50,000	
co.	Benham of Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
cp.	Pathfork Community Park - Development of a local park		
	Restricted Funds	15,000	15,000
cq.	Totz Community Park - Development of a park	15,000	15,000
cr.	Putney Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
cs.	Harlan Shrine Club for Putney Park		
	Restricted Funds	5,000	10,000
ct.	Harlan County Jail - Repairs		
	Restricted Funds	100,000	
cu.	Harlan County Clerk - Office Equipment		
	Restricted Funds	10,000	15,000
cv.	Loyall Fire Department - for Building		
	Restricted Funds	15,000	10,000
Henderson County			
cw.	Henderson County Road Bore Water Project		
	Restricted Funds	225,000	
cx.	Melton Road Waterlines		
	Restricted Funds	16,500	
cy.	Birk City Road Water Project		
	Restricted Funds	21,000	
cz.	Middle Delaware Road Water Project		
	Restricted Funds	22,700	
da.	Water and Sewer Lines – Henderson Fairground		
	Restricted Funds	44,800	

db.	Water and Sewer Department Merger Study		
	Restricted Funds	20,000	
Hopkins County			
dc.	Madisonville Post Office – Acquisition/Renovation		
	Restricted Funds	800,000	
Johnson County			
dd.	Mountain Home Place Project – Redirect to City of Paintsville Reauthorization/Reallocation ($300,000 – Restricted Funds)		
de.	Paintsville City Hall Project – Renovation		
	Restricted Funds	150,000	
df.	Paintsville Tourism Welcome Center – Development		
	Restricted Funds	150,000	
dg.	Highway Lighting (US 460 and 321)		
	Restricted Funds	30,000	
dh.	Johnson County Senior Citizens Center – Renovation/Equipment		
	Restricted Funds	50,000	
di.	Johnson County Public Library Renovation		
	Restricted Funds	100,000	
dj.	Johnson County Industrial Development Project		
	Restricted Funds	500,000	
dk.	Paintsville High School Recreation Field Improvements		
	Restricted Funds	50,000	
dl.	Paintsville Golf Course Project - Development		
	Restricted Funds	75,000	
Knott County			
dm.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	650,000	
dn.	Mallie Water Project		
	Restricted Funds	150,000	150,000
do.	Bill Hall Mountain Water Project		
	Restricted Funds	200,000	200,000
dp.	Owens Branch Water Project		
	Restricted Funds	75,000	75,000
dq.	Short Branch Water Project		
	Restricted Funds		50,000
dr.	Knott County Youth Center – Development		
	Restricted Funds		250,000
ds.	Right Beaver/Caney Creek/Carr Creek Recreation Project		
	Restricted Funds		200,000
dt.	Emma Lena/Carrie/Clear Creek Recreation Facility		
	Restricted Funds		50,000

du.	Lotts Creek Community Center Lighting		
	Restricted Funds		100,000
dv.	Knott County Central Community Recreation Complex		
	Restricted Funds		100,000
dw.	Jones Fork Park		
	Restricted Funds	15,000	
dx.	Ball Creek Park		
	Restricted Funds	15,000	
dy.	Right Beaver-Kite Park		
	Restricted Funds	15,000	
dz.	Hindman Park		
	Restricted Funds	15,000	
ea.	Red Fox Community Park		
	Restricted Funds	15,000	
eb.	Dry Creek Park		
	Restricted Funds	15,000	
Knox County			
ec.	Knox County Fiscal Court Water Projects		
	Restricted Funds	858,000	198,000
Laurel County			
ed.	Laurel County Fiscal Court Waterline Projects		
	Restricted Funds	260,000	
Lawrence County			
ee.	Lawrence County Fiscal Court Water/Sewer Projects		
	Restricted Funds	300,000	
ef.	Lawrence County Parks and Recreation – Various		
	Restricted Funds	350,000	
eg.	Lawrence County Economic Development Projects – Various		
	Restricted Funds	365,300	184,700
Lee County			
eh.	County Multi-Purpose Center Project		
	Restricted Funds	300,000	
Leslie County			
ei.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	1,600,000	
ej.	Leslie County Fiscal Court Water Projects – Various		
	Restricted Funds	1,050,000	
ek.	Road Construction and Equipment		
	Restricted Funds	50,000	
el.	Leslie County Education Center – Construction		
	Restricted Funds	400,000	
em.	Cutshin Senior Citizens Center – Construction		
	Restricted Funds	400,000	
en.	Nixon EOC 911 Project		

	Restricted Funds	750,000	
eo.	Leslie County Volunteer Fire Departments – Equipment/ Vehicles		
	Restricted Funds	60,000	
ep.	W.B. Muncy Gym Renovation		
	Restricted Funds	250,000	
eq.	Leslie County Fiscal Court for Park at CREK Center		
	Restricted Funds	500,000	50,000
Letcher County			
er.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	650,000	
es.	Childs Branch Industrial Park – Development		
	Restricted Funds	471,000	
et.	Jenkins Fire Department – Equipment		
	Restricted Funds	50,000	
eu.	Blackey/Isom Water Project – Improvements		
	Restricted Funds	1,000,000	
ev.	City of Neon Downtown Beautification		
	Restricted Funds	50,000	
ew.	Colson Multi-Purpose Center – Construction		
	Restricted Funds	50,000	
ex.	Gordon Multi-Purpose Center – Acquisition/ Construction		
	Restricted Funds	100,000	
ey.	Southeast Community College (SECC) Walk Bridge		
	Restricted Funds	100,000	
ez.	Industrial/Infrastructure Development – Various		
	Restricted Funds	1,000,000	1,000,000
McCreary County			
fa.	McCreary County Federal Prison Project – Infrastructure		
	Restricted Funds	450,000	
McLean County			
fb.	Purchase Acreage for Industrial Park #2 - City of Island		
	Restricted Funds	125,000	
fc.	Debt Service and Installation of Natural Gas Pipeline to Perdue Farms, Industrial Park #1 and #2		
	Restricted Funds	220,000	
fd.	Sewer Line Extension – Calhoun and Rumsey		
	Restricted Funds		60,000
fe.	Water Plant Renovation – Livermore		
	Restricted Funds	50,000	
ff.	Waterline Extensions Industrial Park #2- City of Island		
	Restricted Funds	70,000	

fg.	One Stop/Adult Education/Workforce Investment Act (WIA) Training Center		
	Restricted Funds	60,000	
fh.	Fire Trucks – Acquisition		
	Restricted Funds	55,000	45,000
Magoffin County			
fi.	Salyersville Wastewater Project – Improvements		
	Restricted Funds	200,000	
Martin County			
fj.	Martin County Community Center – Development		
	Restricted Funds	2,000,000	2,000,000
fk.	Health Clinic		
	Reauthorization ($1,000,000 – Restricted Funds)		
fl.	Sheldon Clark Athletic Field – Development/Expansion		
	Restricted Funds	100,000	
fm.	Martin County Rescue Squad – Renovation/Equipment		
	Restricted Funds	60,000	
fn.	Pigeon Roost Community Center – Development		
	Restricted Funds	30,000	
fo.	City of Warfield Community Projects – Various		
	Restricted Funds	100,000	
fp.	City of Inez Walking Trail – Development		
	Restricted Funds	100,000	
fq.	Martin County Senior Citzens Center – Renovation/ Equipment		
	Restricted Funds	100,000	
fr.	Warfield County Park Project – Development		
	Restricted Funds	30,000	
fs.	Grassy/Tomahawk Walking Trails Project – Development		
	Restricted Funds	75,000	
Morgan County			
ft.	Morgan County Parks		
	Restricted Funds	40,000	
Muhlenberg County			
fu.	Community College Satellite at Central City Road Construction		
	Restricted Funds	100,000	
fv.	Mulhenberg County Courthouse Dome Repair		
	Restricted Funds	200,000	
fw.	Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham		
	Restricted Funds	500,000	
fx.	Courthouse Elevators		
	Restricted Funds	100,000	
fy.	Senior Citizens and Retraining Center Facilities Driveway		
	Restricted Funds	50,000	

fz.	Senior Citizens and Retraining Center Facilities		
	Sewage Collector Lines		
	Restricted Funds	50,000	
ga.	Mulhenberg County Airport Runway for		
	Accommodation of Jets	100,000	
Ohio County			
gb.	Fordsville Water and Sewer – Upgrade		
	Restricted Funds	300,000	
gc.	Centertown Water and Sewer/Ohio County		
	Water Projects		
	Restricted Funds	800,000	
gd.	County Water District Projects – Upgrade		
	Restricted Funds		280,000
Perry County			
ge.	Appalachian Regional Hospital Project –		
	Corporate Expansion		
	Restricted Funds	1,350,000	
gf.	Typo, Krypton, Yerkes, and Williard Water Projects –		
	Expansion		
	Restricted Funds	400,000	
gg.	Feds Fork Water Project		
	Restricted Funds	150,000	
gh.	Lower Second Creek Water Project		
	Restricted Funds	75,000	
gi.	Perry County Ambulance		
	Restricted Funds	25,000	
gj.	Perry County Schools Technology Money		
	Restricted Funds	50,000	
gk.	City of Buckhorn Community Improvements – Various		
	Restricted Funds	50,000	75,000
gl.	Thirteen Volunteer Fire Departments – To Split		
	Restricted Funds	260,000	
gm.	Arts Culture Community Center – Expansion/Renovation		
	Restricted Funds	50,000	
gn.	Hazard/Perry County Community Ministries –		
	Restricted Funds	10,000	
go.	Viper Volunteer Fire Department – Water Project		
	Restricted Funds	100,000	
gp.	Hazard/Perry County Senior Citizens		
	Restricted Funds	50,000	
gq.	Hazard City Schools		
	Restricted Funds	50,000	50,000
gr.	City of Vicco Community Improvements		
	Restricted Funds	75,000	
gs.	City of Hazard		
	Restricted Funds	449,000	
gt.	Perry County School Systems		
	Restricted Funds	350,000	

gu.	Southeast Kentucky Connie Mack		
	Restricted Funds	15,000	
gv.	Perry County Board of Education - Hazard/ Perry Youth Soccer		
	Restricted Funds	10,000	
gw.	City of Vicco ACUP Water Project		
	Restricted Funds		107,000
gx.	Hazard Christian Academy		
	Restricted Funds	5,000	
gy.	Wabaco Christian Academy		
	Restricted Funds	5,000	
gz.	Perry County Board of Education - Perry County Youth Football		
	Restricted Funds	15,000	
ha.	Perry County Sheriff's Department		
	Restricted Funds	50,000	
hb.	Disabled American Veterans' Chapter 64		
	Restricted Funds	25,000	
hc.	County Clerk Office - Updating of Computer System		
	Restricted Funds	18,000	
hd.	Perry County Board of Education - Appalachian Regional Theater Society		
	Restricted Funds	16,000	
he.	City of Vicco - Georges Branch Water Project		
	Restricted Funds	50,000	
hf.	City of Hazard - Planning on Golf Course		
	Restricted Funds	50,000	
hg.	Hazard City Schools Technology Money		
	Restricted Funds	50,000	
Pike County			
hh.	Mountain Water District Projects – Various		
	Restricted Funds	900,000	900,000
hi.	Dorton Little League Field – Development		
	Restricted Funds	100,000	
hj.	Earl Sullivan Community Park – Development		
	Restricted Funds	100,000	
Pulaski County			
hk.	Southeastern Water Project – Expansion		
	Restricted Funds	104,700	
Rockcastle County			
hl.	Match for Appalachian Community Initiative Grant (Community Development Initiative)		
	Restricted Funds	245,000	
Union County			
hm.	New Building and Equipment for Technology Center at High School		
	Restricted Funds	500,000	

hn.	Old Officers Club on Camp Breckinridge – Renovation		
	Restricted Funds	300,000	
Webster County			
ho.	Webster County Water/Sewer – City of Sebree (Industrial Park)		
	Restricted Funds	500,000	
hp.	Webster County Courthouse Renovations		
	Restricted Funds	1,000,000	
Whitley County			
hq.	Whitley County Water Projects – Various		
	Restricted Funds	540,000	540,000
Wolfe County			
hr.	Wolfe County Industrial Property Acquisition		
	Restricted Funds	150,000	
hs.	Wolfe County Road Equipment		
	Restricted Funds	65,000	35,000
ht.	Courthouse Renovations		
	Restricted Funds	25,000	
hu.	Wolfe County Volunteer Fire Departments – Equipment		
	Restricted Funds	30,000	

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	General Administration	2000-01	2001-02
Knott County			
a.	Red Fox Project – Continued Development		
	Restricted Funds	175,000	175,000
Letcher County			
b.	Red Fox Project – Continued Development		
	Restricted Funds	250,000	
Perry County			
c.	Red Fox Project – Continued Development		
	Restricted Funds		197,300
Pike County			
d.	East Kentucky Exposition Center Project – Continued Development		
	Restricted Funds	1,734,000	1,766,000

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2000, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2000; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 1998-2000 appropriated maintenance pools shall remain subject to the provisions of KRS 45.770(4)(c) and (d). Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2000.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium and a partial amount of the annual debt service required has been provided so that preliminary work on the projects may proceed. The full amount of annualized debt service has been included at the beginning of fiscal year 2001-2002. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2001.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated

debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund and that certain projects require a direct appropriation from the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 2000-2001, any debt service lapse necessary to bring the fund balance to $5,000,000 shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2000-2001 in debt service lapse shall be deposited to the statutory Deferred Maintenance Pool Account. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Pool shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool." For the Agency Bond Pool, $35,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2000-2002 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

9. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects, Infrastructure projects, Employment Services Facilities projects authorized in Part IX of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, and initiatives authorized in Part III of this Act, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

10. The Council on Postsecondary Education subheading in this Part includes a project entitled “Capital Renewal and Maintenance Pool.” For the Capital Renewal and Maintenance Pool, $60,000,000 in projects are authorized to be funded from $30,000,000 in General Fund supported bonds and matched with $30,000,000 in Restricted Funds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2000-2002 biennium. Council recommendations may include groupings of projects such as “Life Safety Projects in E&G Buildings.” However, if such groupings do not constitute a single construction project, any individual subproject exceeding $400,000 must be separately identified.

The Council on Postsecondary Education subheading in this Part includes a project entitled “Equipment Replacement Pool.” For the Equipment Replacement Pool $20,000,000 in projects are authorized to be funded from General Fund supported bonds. Allocations from the pool will be determined by the Council, based on the proportional institutional expenditures for instruction and research. Institutions will be required to match research, but not instructional, equipment on a dollar-for-dollar basis. Council recommendations for funding from the pool will be made to the Secretary of the Finance and Administration Cabinet.

11. The General Fund amount of $75,000 authorized in 1998 Kentucky Acts, Chapter 615, Part II (House Bill 321) for the Estill County Board of Education Swimming Pool renovation is reauthorized in fiscal year 2000-2001 and shall be redirected to finance other initiatives.

12. Language provisions relating to Section R, Community Development Projects:

a. Item 1, Project dw, Cardinal Park. The portion of the park related to this appropriation shall be named: This Park was built in honor of Don Fightmaster and individuals with disabilities.

b. Item 7, Project q, Kentucky State Fair and Exposition Center. Funds are provided to complete all planning and construction documents for the proposed expansion of the South Wing. In addition, funds may be used to replace the Astro-Turf in Cardinal Stadium.

c. Item 5, Project ar, Fleming County Water Resources and Land Acquisition. Funds are provided to the Department of Parks for Elk Creek Lake. The Department shall grant reasonable water withdrawals for the Western Fleming Water District.

13. Language provisions relating to Section S, Coal Severance Projects:

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2000-2001 or fiscal year 2001-2002, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

3. Except as otherwise provided in KRS 48.630(9) and (10) and in this Act, a budget unit may requisition for expenditure from its Restricted Funds accounts or Federal Funds accounts, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 2001, and during the fiscal year ending June 30, 2002, all receipts placed to the credit of its funds accounts in each respective year, in addition to any balance which the budget unit may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal

Funds records contained in the FB 2000-2002 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

4. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

6. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

7. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

8. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

9. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 3 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

10. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

11. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

12. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made herebefore or hereafter for the fiscal year ending June 30, 2000, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

13. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

14. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2000 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2000 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2000-2002 biennium, and based upon supporting documentation and legislative records as considered by the 2000 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

15. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

16. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of

Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

17. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

18. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2000 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 1998 Regular Session to sine die adjournment of the 2000 Regular Session is not confirmed by the 2000 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 1999-2000 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2000 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

19. Notwithstanding KRS 48.705(2), there shall be no General Fund surplus revenue receipts or unexpended balances of appropriations deposited in the Budget Reserve Trust Fund Account for fiscal year 2000-2001 or fiscal year 2001-2002 except as otherwise provided in this Act. Existing funds in the account in an amount specified in this Act may be used as provided otherwise in this Act or as designated in Part VI, General Fund Budget Reduction Plan, if General Fund receipts during fiscal year 2000-2001 or fiscal year 2001-2002 are not sufficient to meet the level of General Fund appropriations included in biennial budget bills or any enactment by the 2000 General Assembly which contains an appropriation provision.

20. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System from July 1, 2000, through June 30, 2002, shall be no more than 5.89 percent for nonhazardous duty employees and 18.84 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 21.58 percent.

21. By August 15, 2001, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

22. By October 15, 2001, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

23. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2000 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

24. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

25. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

26. It is the intent of the General Assembly that the Executive Branch implement actions necessary to achieve cost savings as intended, authorized, and directed by 1998 Kentucky Acts, and 1998 House Bill 321 (1998 Ky. Acts ch. 615, Part X), by authorizing the Executive Branch, within the limitations provided for in this Act, to transfer General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit solely within the Cabinets for Families and Children, Finance and Administration, Health Services, Justice, Natural Resources and Environmental Protection, and Workforce Development, and the Department of Education. Any transfer of General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit shall be made only within each specified Cabinet and the Department of Education and shall be limited to the General Fund cost savings amounts identified in the 2000-2002 agency budget request and executive records. The Secretary of any of the specified cabinets and the Commissioner of the Department of Education may submit requests to the State Budget Director of the Governor's Office for Policy and Management for the transfer of General Fund appropriation authority. Such requests shall specify the need for the transfer of General Fund appropriation authority and the manner in which such a transfer would better achieve the General Fund cost savings. Any transfers made under this provision for any of the cabinets identified above or the Department of Education shall result in no change to the total value of the General Fund cost savings amounts as identified in the agency budget request records recommendation and executive

records for the individual cabinets specified above or the Department of Education. Any transfer made under this provision shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

27. For fiscal year 2000-2001 and fiscal year 2001-2002, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

28. Notwithstanding the provisions in Parts I, II, IX, or X of this Act, the amount from the undesignated fiscal year 2000-2001 General Fund balance (General Fund Surplus Account, KRS 48.700) that is carried forward to fiscal year 2001-2002 for budgeted purposes shall be specified in the statutory budget memorandum. This amount may be adjusted in accordance with KRS 48.120(3).

29. Notwithstanding KRS 142.311(2), the dispensing or delivering of outpatient prescription drugs in this state shall be taxed at the rate of fifteen cents ($0.15) per prescription for which any initial payment is received after June 30, 1999, through June 30, 2000. There shall be no tax on outpatient prescriptions after June 30, 2000.

30. Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

31. (a) The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems. The provisions of this Section apply to that Technology Trust Fund and any additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X). The General Assembly has determined that the provisions of this Section shall apply to all General Fund appropriations to the Technology Trust Fund originally authorized and appropriated by the 1996 Ky. Acts ch. 380, Part X and renewed and expanded by the 1998 Kentucky Acts and House Bill 321 (1998 Ky. Acts ch. 615, Part X).

(b) Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item.

(c) In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives. Allocations from the Capital Construction and Equipment Purchase Contingency Account may be used for Technology Trust Fund projects and systems, but notwithstanding KRS 45.770 and 45.800, the total amount of allocations from the Account for Technology Trust Fund projects and systems shall not exceed $2,500,000.

32. The fund sources and appropriation amounts relating to the Transportation Cabinet contained in House Bill 502, as introduced and adjusted by the House Appropriations and Revenue Committee action, are reserved in reports and measures pertaining to the House Committee Substitute for House Bill 502, pending further action on the State/Executive Branch Budget Bill by the Committee and the House of Representatives.

33. The Kentucky Revenue Cabinet may enter into discussions with states regarding development of a multi-state, voluntary, streamlined system for sales and use tax which would have the capability to determine the taxability of a transaction and provide a method for collecting and remitting the taxes to the state. The system may provide compensation for the costs of collecting and remitting sales and use taxes. Following these discussions, the Cabinet may proceed to issue a Joint Request for Information.

The Cabinet may participate in a sales tax pilot project with other states and selected businesses to test means for simplifying sales and use tax administration and may enter into joint agreements for this purpose, subject to the following conditions.

(a) Agreements to participate in the test shall establish provisions for the administration, imposition and collection of sales and use taxes resulting in revenues paid that are the same as would be paid under KRS Chapter 139.

(b) Parties to the agreements are excused from complying with the provisions of KRS Chapter 45A to the extent a different procedure is required by the agreements.

(c) Agreements authorized under this Section, if any, shall terminate no later than December 31, 2001.

Return information submitted to any party or parties acting for and on behalf of the state shall be treated as confidential taxpayer information. Disclosure of confidential information necessary under any agreement shall be pursuant to a written agreement between the Cabinet and other party or parties. Other party or parties shall be bound by the same requirements of confidentiality as the Cabinet under KRS 131.190.

By March 1, 2001, the Cabinet shall report to the Governor and the Legislative Research Commission on the status of multi-state discussions and, if a proposed system is agreed upon by participating states, shall also recommend whether the state should participate in the system.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2000-2002 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2000-2002 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2000, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Pursuant to KRS 18A.355, an increment of five percent (5%) is provided in both fiscal year 2000-2001 and fiscal year 2001-2002 on the base salary or wages of each eligible state employee on their anniversary date.

4. Effective July 1 of each year of the 2000-2002 biennium, the base salary or wage of each state employee that is not in initial probationary status shall be no less than 105 percent of the entry level salary or wage for the grade assigned to each employee's job classification.

The individual appropriation units defined in Part I of this Act include funds to implement the above provisions of the Wage Equity Plan.

On July 1, 2000, classifications that have been determined by the Personnel Cabinet to be five pay grades too low will be raised three pay grades, classifications that are four pay grades too low will be raised two pay grades, and classifications that are three grades too low will be raised one pay grade. Employees that are paid less than 105 percent of the entry level salary or wage shall receive a pay raise to bring their salary or wage to 105 percent of the entry level salary or wage.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 1999-2000, fiscal year 2000-2001, and fiscal year 2001-2002.

		1999-2000	2000-2001	2001-2002
1.	Crime Victims Compensation Board (KRS 346.185)			2,700,000
2.	Department of Insurance (KRS 304.2-400)		461,400	898,600
3.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		3,000,000	3,000,000
4.	Department of Financial Institutions (KRS 287.485)		900,000	900,000
5.	Charitable Gaming Regulatory Account (KRS 238.570)		700,000	740,000
6.	Underground Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-130 to KRS 224.60-155)		400,000	
7.	Housing, Buildings and Construction (KRS 198B.060; 198B.615; 198B.676; 227.620; 236.130; 318.136)			300,000

8.	Mines and Minerals (KRS 351.110(2) and KRS 353.590)			200,000
9.	Secretary of State-Limited Liability Companies Program (KRS 14.140)	1,000,000	500,000	500,000
10.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 4)		2,500,000	2,500,000
11.	Fleet Management Fund (1998 Ky. Acts ch. 615, Part III, Sec. 1)		1,500,000	1,500,000
12.	Capital Construction Investment Income (KRS 42.500(12))	42,000,000	22,800,000	11,562,400
13.	Teacher's Retirement System-Return of Fiscal Year 1999 Excess Appropriation (KRS 161.550)	3,900,000		
		46,900,000	32,361,400	25,201,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,569,000,000 in fiscal year 1999-2000, $6,984,100,000 in fiscal year 2000-2001, and $7,332,100,000 in fiscal year 2001-2002 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) At the close of fiscal year 1999-2000, consistent with the policy direction and operating assumptions for the SEEK program General Fund appropriation as enacted in House Bill 321 (1998 Ky. Acts ch. 615), $20,600,000 from the Support Education Excellence in Kentucky (SEEK) Program shall lapse to the surplus account of the General Fund.

(3) At the close of fiscal year 1999-2000, the General Fund amounts derived from reduced debt service that shall lapse to the General Fund is not less than $25,000,000. All other excess General Fund appropriations derived from reduced debt service requirements shall lapse pursuant to the provisions in this Act.

(4) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(5) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(6) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent

(25%) of the trust fund balance in fiscal year 2000-2001 and fifty percent (50%) of the trust fund balance in fiscal year 2001-2002.

(7) If the actions contained in subsections (1) through (6) of this section are insufficient to eliminate a revenue shortfall of up to five percent (5%) of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is established a Road Fund Budget Reduction Plan for fiscal year 2000-2001 and fiscal year 2001-2002. In the event of an actual or projected deficit in Road Fund revenue receipts of five percent (5%) or less than the revenue estimates of $1,123,210,300 in fiscal year 2000-2001 and $1,163,161,200 in fiscal year 2001-2002 as determined under KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account in excess of $18,823,900 in fiscal year 1999-2000 and $1,616,400 in fiscal year 2000-2001 as provided in the enacted Road Fund budget. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2000-2002 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. GOVERNOR'S OFFICE OF TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office of Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators.

b. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

2. ATTORNEY GENERAL

a. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

b. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

c. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2000-2002 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

d. Asbestos Litigation Fund: Restricted Funds which were appropriated to the Office of the Attorney General by House Bill 321 (1998 Ky. Acts ch. 615) for asbestos litigation administrative costs shall lapse and shall be transferred to the General Fund Surplus Account.

e. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System, soley for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

f. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

g. Victims Witness Protection Funds: The General Fund appropriation to the Office of the Attorney General for the operation of the Victim Witness Protection Program shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2000-2001 for the same purpose.

h. Public Funds: Notwithstanding any provision of common law or statutory law to the contrary, any funds or other assets of any kind or nature, including, but not limited to, public funds as defined in KRS 446.010, court-ordered settlement agreements under KRS Chapter 367, multi-state settlements, and private funds or assets recovered in a legal action on behalf of the general public, the Commonwealth, or its duly elected statewide public officials shall be deemed public funds, and shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office of Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account, and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or a legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action either by individual social security numbers, or other individual identifying numbers, or by the individuals' proper name.

i. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children, effective July 1, 2000. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements. The Office of the Attorney General may utilize proceeds from the sale and renewal of child victims special license plates. Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victims license plates. Any revenue received from the sale or renewal of these plates in excess of costs shall be transferred to the Child Victims Trust Fund on an annual basis.

3. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-128) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2000 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or when the audit is required by statute, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendment Act of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

d. EMPOWER Kentucky Audit Expenses: The Auditor of Public Accounts shall charge for any consultation, training, and technology upgrade expenses incurred because of EMPOWER Kentucky and shall be paid by the client agencies.

4. AGRICULTURE

a. Agriculture - PACE Program: Up to 50% of the proceeds from the bond funds during the biennium shall be available to purchase development rights under the program established under KRS 67A.840 to 67A.850 or as established by other local governments by ordinance. The funds shall be matched dollar for dollar for dollar by local government. No urban county government or other local government shall receive more than $5,000,000 in each year. Fifty percent (50%) of the proceeds from bond funds shall be available to purchase agricultural conservation easements under the program established under KRS 262.900 to 262.920.

5. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

6. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

7. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Veterans' Centers are authorized to provide a weekend and holiday premium pay incentive for the fiscal biennium 2000-2002.

ECONOMIC DEVELOPMENT

8. OFFICE OF THE SECRETARY

a. East and West Kentucky Corporations' and Regional Offices' Strategic Plan: The East and West Kentucky Corporations shall each submit an annual plan to the Interim Joint Committee on Appropriations and Revenue and to the Cabinet for Economic Development defining and outlining their respective roles and responsibilities as they relate to, but do not duplicate, the programs of the Cabinet for Economic Development. The Cabinet for Economic Development shall provide to the Interim Joint Committee for Appropriations and Revenue an annual plan for the Regional Offices defining and outlining their efforts toward maximizing return on investments and reducing duplicative efforts with other regional development groups.

b. Coal County Development Office Reports: The Office of Coal County Development shall a provide biennial progress report of the Local Government Economic Development Fund to the Legislative Research Commission for referral to the appropriate committees. The biennial report shall include but not be limited to a progress report of the Regional Industrial Park Program and a summary report of the administration and distribution of grants within the single county accounts.

c. Funding for New Commissioner: Notwithstanding subchapter 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the Kentucky Economic Development Finance Authority High-Technology Investment Fund shall be used to support the Office of Commissioner for the New Economy, which shall be attached to the Cabinet for Economic Development. The Governor shall appoint the Commissioner who shall serve at the pleasure of the Governor.

d. Knowledge Base Economy Initiatives: Funds provided for the Manufacturing Modernization project shall be used to assist small and medium-sized manufactures to become more competitive in the global marketplace. In addition, funds provided to support the Strategic Technology Capacity Initiative Study shall be used to: (1) develop a knowledge based economy strategy, (2) recruit research and development companies, (3) attract high-tech research and development centers, (4) support growth and creation of high-tech, innovative companies, and (5) build and promote networks of technology-driven and research intensive industries.

e. Kentucky Woods Product Competitiveness Corporation Reports: Notwithstanding KRS 154.47-035, beginning on or before January 15, 2001, and every year thereafter, the Kentucky Woods Product Competitiveness Corporation shall submit a written status report on its projects and activities to the Legislative Research Commission for referral to the appropriate committees. The annual report shall also include the amount of expenditure by activity within each county and the number of employees and relative salaries within the Corporation.

9. FINANCIAL INCENTIVES

a. Bluegrass State Skills Corporation: The Bluegrass State Skills Corporation shall submit quarterly progress reports for the training investment credits program to the Legislative Research Commission for referral to appropriate committees.

b. High-Tech Construction Pool: Notwithstanding subchapter 20 of KRS Chapter 154, $20,000,000 of the Kentucky Economic Development Finance Authority funds are authorized to support a High-Technology Construction Pool. This construction pool will be used for projects with a special emphasis on the creation of high-technology jobs. The Commissioner of the Office for the New Economy shall administer and authorize the distribution of funds from the pool including the authority to designate a project match requirement for a limited amount of fund support from the Construction Pool. The Commissioner shall determine the amount of Pool funds that shall be set aside for the match requirement. Any funds used for matching purposes may include public and private funds. Individual projects may be identified and authorized from this High-Technology Construction Pool consistent with the provisions and reporting requirements set forth in Part II, Capital Projects Budget Provisions, Section 9, of this Act.

c. High-Tech Investment Pool: Notwithstanding subchapter 20 of KRS Chapter 154, or any other Kentucky statute to the contrary, $20,000,000 of the Kentucky Economic Development Finance Authority funds are authorized to be used to build and promote networks of technology-driven and research-intensive industries as well as their related suppliers with the goal of creating clusters of innovation-driven industries in Kentucky as embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. These funds are authorized to be used to support loans and grants, or to secure an equity position in industrial networks of this character. The Commissioner of the Office for the New Economy shall administer and authorize the distribution of funds from the pool.

d. Economic Development Reports: The Economic Development Cabinet shall submit quarterly project status summary reports by project of each Grant, Tax Credit, Loan, and Economic Development Bond Pool Fund support, or any other public funds to be used as an economic development incentive, including job training, as approved by the Kentucky Economic Development Finance Authority, the Economic Development Cabinet, or any other authority or board within the Cabinet, to the Legislative Research Commission for referral to the appropriate committees. The quarterly project status summary report shall include but not be limited to: the name of the participating company; the value and type of development assistance provided; employee projections; the costs per job; the average hourly pay; the total project cost; and the potential tax credit assigned to the project.

10. COMMUNITY DEVELOPMENT

a. Regional Offices: The Regional Offices shall submit quarterly program and status reports to the Legislative Research Commission for referral to the appropriate committees.

b. Flexible Manufacturing Network Program Reports: The Cabinet shall continue to provide quarterly program and financial status reports of the Flexible Manufacturing Network program to the Legislative Research Commission for referral to the appropriate committees.

DEPARTMENT OF EDUCATION

11. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $2,994 per student in average daily attendance in fiscal year 2000-2001 and $3,066 per student in average daily attendance in fiscal year 2001-2002 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Notwithstanding any statutory provisions to the contrary, the vocational education deduct factor shall be fifteen percent in fiscal year 2000-2001 and zero percent in fiscal year 2001-2002.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

For purposes of implementing the provisions of House Bill 469 (1998 Ky. Acts ch. 254), the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 1999 compared to calendar year 1998; the resulting 2.2% increase shall be applicable in both fiscal year 2000-2001 and fiscal year 2001-2002.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Minimum Statewide Salary Schedules: The following is the minimum statewide salary schedule for fiscal year 2000-2001 and fiscal year 2001-2002.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

c. Allocation of Support Education Excellence in Kentucky Lapse Funds: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors if funds for that adjustment factor are not sufficient. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated for the purpose of providing a supplemental wage program for certified personnel in local school districts. To qualify, the personnel must be employed for 175 instructional days within the same local school district. Each qualified certified personnel shall receive a supplemental payment in fiscal biennium 2000-2002 which shall not become part of the base salary or be included in retirement calculations. The Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education shall certify that excess funds are available.

12. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

13. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2000-2001 but shall be available if needed in fiscal year 2001-2002. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2000-2001 and $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2001-2002 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 2000-2001 and in fiscal year 2001-2002 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. The Department of Education is authorized to retain $76,900 in fiscal year 2000-2001 and $79,700 in fiscal year 2001-2002 from the funds appropriated for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

d. Education Professional Standards Board System Infrastructure/Database System: The capital project authorized in Part II, Section C, item f of this Act shall, to the maximum degree possible, provide the Kentucky Department of Education with capacity for data warehousing for student, financial, and related data needs as well as providing teacher quality data.

14. LEARNING SUPPORT SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Education Professional Standards Board (EPSB): Notwithstanding any statute to the contrary, the EPSB may collect fees for the issuance of certifications. EPSB may charge the following fees at the corresponding amounts: issuance or reissuance (renewal) of regular certificate (to include all previously issued certifications and endorsements) - $50; each transaction to add area(s) of certification or rank - $50; issuance of five-year substitute certificate - $15; issuance of duplicate certificate - $25; reissuance of limited certification - $35.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 1999-2000 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70% of its fiscal year 1999-2000 allocation.

EDUCATION, ARTS, AND HUMANITIES

15. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

16. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2000-2001 and fiscal year 2001-2002 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding any provisions of KRS 157.611 to 157.665 to the contrary, the School Facilities Construction Commission is authorized to make offers of assistance to eligible schools in an amount not to exceed $100,000,000 during the fiscal 2000-2002 biennium.

c. Bond Sales: Bond sales prior to June 30, 2000, are limited to the amount that can be supported on an annual basis by the amount of debt service appropriated in Part I of this Act.

d. Extending Offers of Assistance: Notwithstanding KRS 157.622(5), a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

e. Additional Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2000-2002. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

17. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Library Facilities Fund: There is established a Public Library Facilities fund for library improvements. The Department for Libraries and Archives is authorized to enter into long-term written memoranda of agreement with local libraries to assist in construction and renovation, including providing debt service payments. Such agreements shall specify the rights, duties, and obligations of both the local public library and the Department. The Department shall promulgate administrative regulations to establish the application process, criteria for selecting projects for assistance, and the process to be followed in the construction of facilities. The Department shall report assistance awards to the Interim Joint Committee on Appropriations and Revenue within 30 days of execution of any memorandum of agreement.

FAMILIES AND CHILDREN

18. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

b. Funds Transfer: To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer Temporary Assistance to Needy Families (TANF) funds to the Department for Public Health in the Cabinet for Health Services in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. Such transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram.

c. Legislative Oversight: To provide legislative oversight, the Cabinet for Families and Children shall apply the provisions of KRS 48.630 to the program level including the following programs: Temporary Assistance to Needy Families (TANF), Medical Assistance, State Supplementation, Welfare to Work, Child Support, Energy, Child Care, Family Based Services, Adult Services, and Alternatives for Children; and Appropriation Units: Administration Services and Disability Determinations.

19. COMMUNITY BASED SERVICES

a. Energy Assistance Trust Fund: Notwithstanding KRS 42.560, only those Restricted Funds necessary to supplement Federal Funds in order to maintain program levels as appropriated, are authorized from the Energy Assistance Trust Fund for fiscal year 2000-01 for the Home Energy Assistance and Weatherization programs.

b. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of 7% of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance.

c. Emergency Shelter: The General Fund appropriation for Alternatives for Children Program includes $450,000 each fiscal year for Private Child Care Emergency Shelter at the Home for the Innocents for temporary emergency services.

d. Outreach Programs: A General Fund appropriation of $225,000 each fiscal year is provided for Outreach Resource Centers Services for adults and children services expansion through the Mountain Outreach in McRoberts ($150,000 operating expenses each fiscal year) and Sarah's Place Women's Resource Center in Sandy Hook ($75,000 operating and renovation expenses each fiscal year).

e. Salary Improvements: An appropriation of $189,004,900 in fiscal year 2000-2001 is provided for Salary and Fringe Benefits costs in Community Based Services. Any appropriation for Salary and Fringe Benefits costs unexpended for Salary and Fringe Benefits costs in fiscal year 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act, to provide salary increases for employees in the Social Service Worker I and Social Service Worker II classifications.

20. ADMINISTRATION SERVICES

a. Salary Improvements: An appropriation of $24,216,300 in fiscal year 2000-2001 is provided for Salary and Fringe Benefits costs in Administration Services. Any appropriation for Salary and Fringe Benefits costs unexpended for Salary and Fringe Benefits costs in fiscal year 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act, to provide salary increases for employees in the Social Service Worker I and Social Service Worker II classifications in Community Based Services.

b. Workplace Improvements: The Cabinet for Families and Children may expend up to $500,000 in fiscal year 2000-2001 and $1,400,000 in fiscal year 2001-2002 for lease expansions.

HEALTH SERVICES

20. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the statutory budget memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

21. MEDICAID ADMINISTRATION

a. It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability Act (HIPA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services and special expenditures/offsets, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request. The Department for Medicaid Services, by July 1, 2000, shall promulgate administrative regulations to implement the provisions of this Section.

c. Medicaid Managed Care Administrative Costs: The Department for Medicaid Services shall collect information on Medicaid managed care organization administrative costs for each contracting entity and forward this information to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. No Medicaid managed care entity's administrative costs shall exceed 15% of the total Medicaid managed care contract cost.

d. Dental Reimbursement: The Department for Medicaid Services shall increase dental reimbursement by $11,160,000 in fiscal year 2000-2001 and $11,144,900 in fiscal year 2001-2002.

e. Medicaid Nursing Facility Allocation: The Medicaid Nursing Facility allocation for fiscal year 1999-2000 of $551,000,000 shall be increased a minimum of 3.1% in each year of the biennium to cover normal inflationary costs of operation. In addition to this inflationary base adjustment, $1,000,000 in General Fund support in fiscal year 2000-2001 and $2,000,000 in fiscal year 2001-2002 in General Fund support is provided to implement the revised Nursing Facility Prospective Payment System.

22. MEDICAID SERVICES - BENEFITS

a. Hospital Indigent Patient Reporting: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size type set as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

d. Indigent Care Posting: Any provider who receives payment from the Disproportionate Share Hospital Program shall post a sign conspicuously in the lobby, in at least a 16-point type set, stating that they participate in the Disproportionate Share Hospital Program and are consequently required to provide indigent care. Failure to comply with this provision shall result in suspension from the Disproportionate Share Hospital Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

e. Settlement of Obligations Incurred Prior to Prepaid Capitation: The Department is authorized to fulfill financial obligations incurred prior to implementation of prepaid capitation.

f. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997.

g. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

h. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

23. DEPARTMENT FOR PUBLIC HEALTH

a. Kentucky Public Health Departments shall, to the extent possible, perform the following core public health functions: enforcement of public health regulations; surveillance of public health; communicable disease control; public health education; public health policy development; reduction of risk to families and children; and disaster preparedness.

b. Local Health Department Transition Training Program Carryforward: Any General Fund appropriation unexpended in fiscal year 2000-2001 for the Local Health Department Funding Transition Training within the Department for Public Health shall not lapse, but shall be carried forward into fiscal year 2001-2002, notwithstanding KRS 45.229.

c. Funds Transfers: To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer

TANF funds to the Department for Public Health in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. A transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram.

d. Kentucky Regional Poison Control Center: The contract for the operation of the Kentucky Regional Poison Control Center shall equal at least $1,000,000 in each fiscal year, absent of any pass-through to any other entities.

e. Manchester Wellness Centers: General Fund support totaling $30,000 in fiscal biennium 2000-2002 for the Wellness Program in Manchester to be equally divided between the communities of Fogertown, Brightshade, and Oneida (Clay County).

f. Folic Acid, HANDS, Healthy Start, and Vaccine Coverage: General Fund (Tobacco) support totaling $11,117,300 in fiscal year 2000-2001 and $16,144,700 in fiscal year 2001-2002 and Restricted Funds support totaling $2,934,800 in fiscal year 2000-2001 and $5,536,000 in fiscal year 2001-2002 is provided for Folic Acid, HANDS, Healthy Start, and Vaccine Coverage.

25. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997 in the amount of $30,900,000 in fiscal year 2000-2001 and $29,200,000 in fiscal year 2001-2002.

b. Any Restricted Funds carryforward, up to $900,000 each fiscal year, may be used by the Department for Mental Health and Mental Retardation Services for planned replacement of computers and software in the Residential Services Program.

c. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

d. The Healing Place Homeless Shelter: The total contract amount for the operation of the Healing Place Homeless Shelter shall be paid by the Department for Mental Health/Mental Retardation directly to the Healing Place Homeless Shelter and shall not pass through any other entity.

26. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Universal Newborn Screening: General Fund (Tobacco) support totaling $1,100,800 in fiscal year 2000-2001 and $605,300 in fiscal year 2001-2002 is provided for universal newborn screening.

27. CERTIFICATE OF NEED

Voluntary Relinquishment of a Certificate of Need or Licensure: For twenty-four (24) months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

28. AGING SERVICES

a. Notwithstanding KRS 205.460, entities contracting with the Cabinet to provide essential services under KRS 205.455 and this provision shall provide equal to or greater local match than the amount in effect during fiscal year 1999-2000. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

29. ADMINISTRATIVE SUPPORT

a. Licensing Personnel: Federal Funds support totaling $1,851,100 in fiscal year 2000-2001 and $1,851,100 in fiscal year 2001-2002 is provided for licensing personnel.

JUSTICE

30. JUSTICE ADMINISTRATION

a. Legal Aid Restrictions: These funds shall be used for providing and arranging civil legal representation for eligible low-income Kentuckians who are currently underserved and for purposes consistent with federal law and regulations. These funds shall not be used for lobbying on issues related to abortion. The recipient of this appropriation shall report annually to the Interim Joint Committee on Appropriations and Revenue on the dispositions of the grant.

b. The Urban League of Lexington-Fayette County Reporting Requirement: The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and/or federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Secretary of Justice shall supplement the General Fund appropriation with Federal funds up to a combined total of $300,000 each year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

31. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, or any combination thereof, to provide 911 emergency telephone service.

32. CORRECTIONS MANAGEMENT

a. Reimbursement to Counties for Interstate Inmate Detainees: The Department of Corrections shall reimburse fifty percent (50%) of documented expense claims for prior year costs incurred by counties for holding interstate inmate detainees awaiting transfer in local jails and the sum of $40,000 in fiscal year 1999-2000 is included in the General Fund appropriation for this purpose.

33. ADULT INSTITUTIONS

a. Inmate Projection/Bed Status and Financial Reports: The Justice Cabinet, Department of Corrections, shall provide a quarterly report regarding inmate population projections relating to state prisoners to the Interim Joint Committee on Appropriations and Revenue. The Justice Cabinet, Department of Corrections, shall provide a monthly status of all bed space utilized to house state prisoners, including state penitentiaries, adult correctional facilities, local jails, regional jails, halfway houses, community confinement programs, and diversion programs. The Justice Cabinet, Department of Corrections, shall provide a quarterly program and financial status report which identifies the expenditure of these funds to the Interim Joint Committee on Appropriations and Revenue. The report shall provide, at a minimum, the purpose for which the expenditure was made; the projected goal to be accomplished and outcomes, and their status; and the number of participants.

b. Reporting Requirements: The Department of Corrections shall require and Private Prison Bed Contractors shall provide to the Department of Corrections an annual report that contains, at a minimum, personnel data that includes a pay scale/job classification structure for all employees; information detailing salaries of personnel and related benefits by pay scale/job classification structure; and the minimum, average, and maximum salary, plus fringe benefits provided for all employed persons. The information provided shall be consistent with the Department of Corrections pay scale and job classification structure for all Department of Corrections employees. Fringe benefits shall be identified separately from salary expense. The Department of Corrections shall annually furnish a report containing the above information plus like data for persons employed in comparable positions within Adult Correctional Facilities statewide to the Personnel Cabinet and Legislative Research Commission.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

34. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

35. DEPARTMENT FOR NATURAL RESOURCES

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Natural Resources budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

36. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Clean Air Task Force: The Clean Air Task Force membership and reporting requirements established by the 1992 General Assembly shall be continued. The Task Force shall include representatives of the industry, the environmental community, and the Cabinet, and shall report quarterly to the Legislative Research Commission for referral to appropriate committees.

c. Hazardous Waste Assessments: Notwithstanding KRS 224.46-580(7), hazardous waste assessments shall continue to be charged and collected in fiscal biennium 2000-2002.

37. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit, the Natural Resources budget unit, and the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

38. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Natural Resources and Environmental Protection Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies. The Kentucky River Authority shall continue the same rate level in fiscal biennium 2000-2002 as is currently assessed in fiscal biennium 1998-2000.

39. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

40. HOUSING, BUILDINGS AND CONSTRUCTION

a. Fire Dispatcher Training: The Commission on Fire Protection Personnel Standards and Education shall pay all expenses for fire dispatchers to attend dispatcher training at the Department of Criminal Justice Training at Eastern Kentucky University.

POSTSECONDARY EDUCATION

41. COUNCIL ON POSTSECONDARY EDUCATION

a. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the 1998 General Assembly.

b. Research Challenge Trust Fund Account: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Research Challenge Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that cash or a legally enforceable contract has been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

c. Endowment Program Minimum Allocations: Consistent with the goals stated in KRS 164.003, it is the intent of the General Assembly that the Council on Postsecondary Education establish a minimum endowment for the allocations from the Endowment Program of the Research Challenge Trust Fund to the University of Louisville and the University of Kentucky. The establishment of the minimum endowment amount ensures that the allocations from the Research Challenge Trust Fund allow the Commonwealth to achieve the goals stated in KRS 164.003 in a prudent and reasonable manner as quickly as possible.

d. Research Challenge Trust Fund Program Allocations: It is the intent of the General Assembly that the Council on Postsecondary Education establish guidelines to ensure that as least 75% of the allocations from the Endowment Program of the Research Challenge Trust Fund to the University of Kentucky and the University of Louisville are allocated to the programs and disciplines of engineering, technology, health sciences, life sciences, mathematics, and physical sciences, which are more likely to be eligible for external funding from federal, private, and industry sources, provided they meet the minimum threshold endowment of $250,000. The earmarking of the Endowment Program of the Research Challenge Trust Fund for these disciplines will guarantee that moneys in the Research Challenge Trust Fund are leveraged to provide external fund sources that allow the Commonwealth to achieve the goals stated in KRS 164.003 in a reasonable and expeditious manner.

e. Endowment Program Private Match: It is the intent of the General Assembly that the Council on Postsecondary Education should establish a fair and reasonable method of dispersing the Endowment Program funding of the Research Challenge Trust Fund to the universities in such a way that requires the private match to be available in cash or by means of a legally enforceable contract to qualify for the disbursement of state funds. It is the intent of the General Assembly that the method of disbursement should not impede the ability of the universities to prudently and expeditiously raise private funds.

f. Regional University Excellence Trust Fund: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments, including amounts pledged as deferred gifts that are vested in irrevocable trust, have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

g. Kentucky Commonwealth Virtual University: The Kentucky Commonwealth Virtual University shall not expend state funds to acquire on-line courses and degree programs which are available from a Kentucky public postsecondary institution.

h. Board of Regents Employee Exemption: Notwithstanding KRS 164.360(2), any person employed at a public postsecondary education institution at least 36 months or more before the persons relative was appointed to the board of regents of that institution shall continue to be an employee of that institution.

i. Workforce Development Trust Fund: Notwithstanding KRS 164.7925, the General Assembly directs that Lexington Community College shall be eligible for funding from the $6,000,000 General Fund appropriations each fiscal year, to postsecondary institutions in Part I, Section L, Operating Budget, in the Workforce Development Trust Fund, for initiatives to provide workforce training programs.

j. Maintenance and Operation Funds for New Postsecondary Education Facilities: The General Fund appropriations to postsecondary institutions in Part I, Section L, Operating Budget includes the amounts of $2,067,900 in fiscal year 2000-2001 and $17,030,700 in fiscal year 2001-2002 allocated for maintenance and operation of new facilities at each institution authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321). Any corresponding unexpended amounts for this purpose shall not lapse, notwithstanding KRS 45.229, but shall be allotted to the respective institutions for program purposes.

42. MOREHEAD STATE UNIVERSITY

a. Space Allocation: Morehead State University shall provide sufficient classroom, open laboratory, teaching laboratory and other space necessary for the Kentucky Community and Technical College System and other public entities to provide course offerings to assist in meeting the academic and workforce training needs of the region within the West Liberty Extended Campus Building authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321).

43. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Kentucky Community and Technical College System Faculty and Staff Salaries: The number one budget request priority of the Kentucky Community and Technical College System is to correct the historically low salaries of the faculty and staff. The average 1998-99 salary of a community college faculty member is approximately $2,800 less than the midpoint between the average 1998-99 salary of a Kentucky K-12 teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions. The Kentucky Community and Technical College System shall place the highest priority on improving the salaries of the Kentucky Community and Technical College System faculty and nonexecutive and nonmanagement staff.

REVENUE

44. PROPERTY VALUATION ADMINISTRATORS

a. Annual and Compensatory Leave: Notwithstanding the provisions of KRS 18A.110 to 18A.355 and KRS 61.510 to 61.705, the cabinet shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

TOURISM DEVELOPMENT

45. OFFICE OF THE SECRETARY

a. Tourism Development Loan Program: Funds from the Tourism Development Loan Program shall be provided for direct loans for new tourism business start ups or expansion of tourism businesses. The local financial institution shall service all loans which shall be on a cash match basis. The maximum state loan amount shall be $250,000 and all loan proceeds must be for fixed costs only. The Secretary of Tourism shall establish a Tourism Development Finance Authority, subject to the approval of the Budget Review Subcommittee on Economic Development, Natural Resources and Tourism of the Interim Joint Committee on Appropriations and Revenue, to establish all the criteria and oversee disbursement and collection of the funds.

46. DEPARTMENT OF PARKS

a. Jenny Wiley Trail Task Force: The Jenny Wiley Trail Task Force shall continue to maintain and manage the Jenny

Wiley Trail. The Task Force shall provide a progress report to the Legislative Research Commission for referral to the appropriate committees by December first of each year.

b. Golf Course Construction Reports: The Department of Parks shall provide a biennial status report to the Legislative Research Commission for referral to the appropriate committees summarizing the progress of the Golf Course Development projects.

c. Entrance to E.P. Tom Sawyer State Park: The Department of Parks is prohibited from permitting the Transportation Cabinet from constructing a new entrance to E.P. Tom Sawyer State Park from either the Lakeland Road or Old Whipps Mill Road.

47. KENTUCKY HORSE PARK

a. Leasing of Horse Park Property: No group which leases portions of the Horse Park property for recreational purposes for a nominal fee may sublet any portion of the leased property to another group for recreational purposes for any more than a nominal fee.

TRANSPORTATION CABINET

48. GENERAL ADMINISTRATION AND SUPPORT

a. Transportation Cabinet Office Building Provisions: The Transportation Cabinet shall relinquish the rights to the existing State Office Building in return for the General Fund-supported previously authorized but unissued $18,900,000 bonds that are reauthorized in Part II, Section P, 1.k. of this Act. The General Assembly declares that the new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and that any surplus bond proceeds or debt service appropriations shall be deposited in the State Construction Account. Any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

49. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited in the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration or project specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 1998-2000 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four year preconstruction program.

d. The Transportation Cabinet is authorized to select up to five design/build demonstration projects relating to roads. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Appalachian Hospital Access Road: Included in the Road Fund appropriation of the Highways budget unit is $3,100,000 for the Appalachian Hospital Access road project in Perry County in fiscal year 2000-2001. The State Budget Director may substitute excess bond proceeds and earnings to the extent these Restricted Funds may be available. Actions under this authorization are subject to KRS 48.500 to 48.800.

f. E. P. "Tom" Sawyer State Park: The Department of Parks is prohibited from permitting the Transportation Cabinet from constructing a new entrance to E.P. "Tom" Sawyer State Park in Jefferson County, Kentucky, from either Lakeland Road or Old Whipps Mill Road.

g. Daniel Boone Parkway Tolls: The Transportation Cabinet shall remove the tolls from the Daniel Boone Parkway no later than June 30, 2002.

WORKFORCE DEVELOPMENT CABINET

50. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2000-2002 fiscal biennium.

b. Included in the Area Technical Center Equipment, Community Development Projects, as provided in Part II, Capital Projects are the following: $127,000 in fiscal year 2000-2001 for the Floyd County Area Technology Center for equipment and $125,000 in fiscal year 2000-2001 for the West Liberty Computer Repair Center.

c. One-Stop Center: The General Assembly directs $150,000 be expended for design of a One-Stop Center to be located in Rowan County under the provisions of the Employment Service's Facility Replacement and Renovation Policy.

51. EMPLOYMENT SERVICES

a. Facility Replacement/Renovation Policy: The Department for Employment Services is authorized to develop and implement a facility replacement and renovation program the purposes of which are to improve the quality of Workforce Development Cabinet facilities used by the Department for Employment Services and its clients, and to reduce departmental reliance on lease/rental properties.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2000-2001 and 2001-2002. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance (General Fund Surplus Account, KRS 48.700) are appropriated to the following: Endowment Fund and the Capital Facilities Fund as established in this Part of this Act; and the Budget Reserve Trust Fund established in KRS 48.705. Collectively, these three component funds make up the General Fund Surplus Expenditure Plan for fiscal years 2000-2001 and 2001-2002.

2. The General Fund amount appropriated to the Surplus Expenditure Plan from the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and fiscal year 2000-2001 respectively shall not exceed the total for the appropriations made for fiscal years 2000-2001 and 2001-2002 combined. If the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and at the close of fiscal year 2000-2001 totals less than the total combined Surplus Funds appropriation amounts for fiscal year 2000-2001 and fiscal year 2001-2002, the amount available for appropriation for fiscal year 2000-2001 and for fiscal year 2001-2002 pursuant to this section shall be the total undesignated fund balance amount at June 30, 2000, and at June 30, 2001, for the respective years. These amounts are appropriated in fiscal year 2000-2001 and in fiscal year 2001-2002, and shall be allocated in the following manner: 83.33 percent of the total General Fund surplus balance to the Endowment program of the Research Challenge Trust Fund of the Council on Postsecondary Education, and 16.67 percent to the Endowment program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education not to exceed a total of $120,000,000. In the event that the total General Fund surplus balance at the close of fiscal year 1999-2000 shall be less than $120,000,000, a proportional amount of the General Fund surplus balance shall be allocated to each of the Trust Funds. In the event that the total General Fund surplus balance exceeds $120,000,000 at the close of fiscal year 1999-2000, the amount up to $10,000,000 that exceeds $120,000,000 shall be credited to the Capital Facilities Fund. In the event that the total General Fund surplus income balance exceeds $130,000,000 at the close of fiscal year 1999-2000, the amount of the balance that exceeds $130,000,000 shall be credited to the Budget Reserve Trust Fund.

3. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1999-2000, and the close of fiscal year 2000-2001, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2000-2001 and fiscal year 2001-2002.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2000, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2000-2001 pursuant to the Plan.

4. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not certified to be available for expenditure and appropriation in fiscal year 2000-2001, the remaining projects in the same priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance for the General Fund Surplus Account effective July 1, 2001, for fiscal year 2001-2002.

5. Individual project priority rankings have been established as follows:

Priority	General Fund Surplus Appropriations
I. ENDOWMENT FUND	
A. Council on Postsecondary Education	
Budget Unit Research Challenge Trust Fund	
1. Endowment Program	100,000,000
The total amount is appropriated in fiscal year 2000-2001.	
Budget Unit Regional Universities Excellence Trust Fund	
2. Endowment Program	20,000,000

The total amount is appropriated in fiscal year 2000-2001.

Endowment Fund subtotal	120,000,000
II. CAPITAL FACILITIES FUND	
A. Department of Facilities Management	
1. Emergency Repair, Maintenance and Replacement Fund	4,500,000
2. Capital Construction and Equipment Contingency Fund	5,500,000
Capital Facilities Fund subtotal	10,000,000

6. To the extent that the available General Fund Surplus in fiscal year 1999-2000 exceeds the total component fund amounts allocated to fiscal year 2000-2001, then the additional available General Fund Surplus amount is appropriated for fiscal year 2001-2002 allocation to the component priorities.

7. Figures for amounts in all determinations, authorizations, and appropriations under the Plan shall be rounded to the lower hundredth dollar.

Notwithstanding KRS 48.140 and the provisions of Part X 1. to 5. above, if the total undesignated fund balance in the General Fund in fiscal year 1999-2000 and 2000-2001 respectively exceeds the total combined General Fund Surplus Plan appropriation amount, there is appropriated in fiscal year 2001-2002 to the Budget Reserve Trust Fund an amount that enables the Budget Reserve Trust Fund to contain a fund balance up to five percent (5%) of the actual General Fund revenue in fiscal year 2000-2001 which is an additional $109,921,600.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as anticipated by the 1998 Regular Session of the General Assembly in House Bill 321, Part III, item 29. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 40 Settling States which provides reimbursement to states for smoking related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year. The Commonwealth has already received the first such payment from which no funds have been expended pursuant to the policy set forth by the 1998 General Assembly.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, and previously settled states adjustments.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement funds shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement funds that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 1999-2000 is $137,800,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

5. From the estimated $137,800,000 in fiscal year 1999-2000 the General Assembly directs the following:

a. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is credited in fiscal year 1999-2000 to the General Fund Surplus Account.

(1) Eighty-three and thirty-three hundredths percent (83.33%) of this amount shall be dedicated to the Endowment Program of the Research Challenge Trust Fund of the Council on Postsecondary Education as specified in Part IX of this Act.

(2) Sixteen and sixty-seven hundredths percent (16.67%) of this amount shall be dedicated to the Endowment Program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education as specified in Part X of this Act.

b. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is appropriated in fiscal year 2000-2001 to the Rural Development Fund attached to the Governor's Office for Agriculture Policy to be used for agricultural development initiatives pursuant to enabling legislation to be considered by the 2000 General Assembly.

(1) Of this amount, $40,000,000 shall be designated and reserved to ensure that recipients of payments from the National Tobacco Grower Settlement Trust (Phase II Settlement) in calendar years 2000 and 2001 are compensated at a level

not less than the compensation received from the Phase II Settlement in calendar year 1999.

6. It is estimated that MSA Phase I Tobacco Settlement Funds amounting to $101,100,000 in fiscal year 2000-2001 and $121,600,000 in fiscal year 2001-2002 will be received and available for appropriation.

a. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Early Childhood Development Fund which is proposed to be established by enabling legislation in the Governor's Office for Early Childhood Development to be used for early childhood development initiatives. The Fund will be administered by a board to be established by enabling legislation.

b. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Kentucky Health Care Improvement Fund which is proposed to be established by enabling legislation in the Department of Insurance to be used for health care initiatives. The Fund will be administered by a board to be legislatively established.

(1) Of these amounts, twenty percent (20%), estimated to be $5,055,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002, shall be dedicated to a lung cancer research program. The appropriation for this initiative is contained within the appropriation amount for the Council on Postsecondary Education in Part I of the Act and is subject to approval by the board.

(2) Of these amounts, ten percent (10%), estimated to be $2,527,500 in fiscal year 2000-2001 and $3,040,000 in fiscal year 2001-2002, shall be dedicated to a smoking prevention program to be administered by the Department for Public Health in the Cabinet for Health Services. The appropriation for this initiative is contained within the appropriation amount for the Department for Public Health in the Cabinet for Health Services in Part I of the Act and is subject to approval by the board.

(3) Of these amounts, seventy percent (70%), estimated to be $17,692,500 in fiscal year 2000-2001 and $21,280,000 in fiscal year 2001-2002, shall be dedicated to a health insurance program for high cost individuals to be administered by the Department of Insurance in the Public Protection Cabinet. The appropriation for this initiative is contained within the appropriation amount for the Department of Insurance in the Public Protection Cabinet in Part I of the Act and is subject to approval by the board.

c. Fifty Percent (50%) of the MSA payments received in fiscal year 2000-2001, estimated to be $50,550,000, and in fiscal year 2001-2002, estimated to be $60,800,000, is appropriated to the Rural Development Fund which is proposed to be established in enabling legislation in the Governor's Office for Agriculture Policy to be used for agricultural development initiatives. The Fund will be administered by a board to be legislatively established.

d. Notwithstanding any provision in another enactment by the 2000 General Assembly and any other provision in this Act, there is appropriated out of the Kentucky Agricultural Development Fund to the Governor's office for Agricultural Policy the sum of $1,100,000 in fiscal year 2000-2001 and the sum of $1,250,000 in fiscal year 2001-2002 for the Aquaculture Production Ponds Construction Program.

The Aquaculture Production Ponds Construction Matching Program and the Aquaculture Infrastructure Components Program are established in the Governor's Office for Agricultural Policy. The Aquaculture Production Ponds Construction Matching Program shall match private dollars with program funds for the purpose of constructing ponds suitable for aquaculture on public or private lands. The Aquaculture Infrastructure Components Program may match private dollars with program funds or award grants for the purpose of purchasing or developing aquaculture infrastructure components and aquaculture marketing. The Governor's Office for Agricultural Policy shall have the authority to promulgate regulations to administer these programs. Moneys remaining at the end of the year shall not lapse, notwithstanding KRS 42.229.

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 10,912,900	6,782,463,200	7,111,783,000	
Restricted Funds	24,583,200	3,093,616,800	3,182,655,000
Federal Funds 827,600	4,937,847,500	5,080,121,100	
Road Fund		1,209,014,800	1,324,330,600
Subtotal	36,323,700	16,022,942,300	16,698,889,700

CAPITAL PROJECTS BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 700,000	8,922,000	4,554,000	
Restricted Funds	210,000	806,641,600	68,933,600
Federal Funds	23,624,600	2,250,500	
Bond Funds	881,009,100	2,500,000	

Road Fund		10,050,000	7,814,000
Agency Bonds	75,157,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		16,806,000	16,540,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
Subtotal	3,120,000	2,009,244,300	110,056,100

TOTAL-STATE/EXECUTIVE BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 11,612,900	6,791,385,200	7,116,337,000	
Restricted Funds	24,793,200	3,900,258,400	3,251,588,600
Federal Funds 827,600	4,961,472,100	5,082,371,600	
Road Fund		219,064,800	1,332,144,600
Bond Funds	881,009,100	2,500,000	
Agency Bonds	75,157,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		16,806,000	16,540,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
TOTAL FUNDS	39,443,700	18,032,061,600	16,808,945,800

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

The Committee Amendment No. 1 to the Committee Substitute to **HB 502** is as follows:

Beginning on page 71, line 2, through page 75, line 21, of HB 502/HCS, by deleting those lines in their entirety and inserting in lieu thereof the following provisions relating to Part I, Operating Budget:

"P. TRANSPORTATION CABINET

88. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2000-01	2001-02
Restricted Funds	11,631,200	11,632,200
Federal Funds	209,000	209,000
Total	11,840,200	11,841,200

Notwithstanding KRS 183.525(5), the Restricted Fund appropriation above includes operational costs of the program.

b. Revenue Sharing

	2000-01	2001-02
Road Fund	217,866,000	222,637,800

1. Included in the above Road Fund appropriation is $82,403,500 in fiscal year 2000-2001 and $84,215,200 in fiscal year 2001-2002 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2000-2001 and $38,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $99,965,000 in fiscal year 2000-2001 and $102,162,800 in fiscal year 2001-2002 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2000-2001 and $46,000

in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $34,672,500 in fiscal year 2000-2001 and $35,434,800 in fiscal year 2001-2002 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2000-2001 and $16,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	2000-01	2001-02
General Fund	75,300	78,100

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	2000-01	2001-02
General Fund	6,133,600	6,671,600
Restricted Funds	829,600	858,300
Federal Funds	7,740,000	8,044,000
Total	14,703,200	15,573,900

Included in the above General Fund appropriation is $2,750,000 in fiscal year 2000-2001 and $3,000,000 in fiscal year 2001-2002 for nonpublic school transportation.

Included in the above General Fund appropriation is $820,000 in each fiscal year for the TARC Transportation for Tomorrow Study in Jefferson County, and $266,100 in fiscal year 2000-2001 and $625,500 in fiscal year 2001-2002 to match Federal Funds for LEXTRAN in Fayette County.

e. Highways

	2000-01	2001-02
Restricted Funds	60,978,100	61,921,800
Federal Funds	486,500,000	495,300,000
Road Fund	615,521,000	630,239,900
Total	1,162,999,100	1,187,461,700

1. Included in the above Road Fund appropriation is $274,579,300 in fiscal year 2000-2001 and $283,442,500 in fiscal year 2001-2002 for the State Funded Construction Program.

Included in the State Funded Construction Program is $64,500,000 in fiscal year 2000-2001 and $66,000,000 in fiscal year 2001-2002 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $173,579,300 in fiscal year 2000-2001 and $179,942,500 in fiscal year 2001-2002 from the Road Fund for state construction projects in the 2000-2002 Biennial Highway Construction Program.

2. Projects in the enacted 1998-2000 Biennial Highway Construction Plan are so listed in order to continue their current authorization into the 2000-2002 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $35,000,000 in fiscal year 2000-2001 and $35,000,000 in fiscal year 2001-2002 for the Highway Construction Contingency Account.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $190,000 in fiscal year 2000-2001 and $190,000 in fiscal year 2001-2002 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

f. Vehicle Regulation

	2000-01	2001-02
Restricted Funds	2,925,000	2,975,600
Federal Funds	2,225,000	2,225,000
Road Fund	28,942,400	29,796,200
Total	34,092,400	34,996,800

g. Debt Service

	2000-01	2001-02
Road Fund	167,275,700	169,854,300

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2000-2001 and $620,600 in fiscal year 2001-2002 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $36,066,600 in fiscal year 2000-2001 and $12,350,400 in fiscal year 2001-2002 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $130,588,500 in fiscal year 2000-2001 and $156,883,300 in fiscal year 2001-2002 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2000-2002 biennium.

h. General Administration and Support

	2000-01	2001-02
Restricted Funds	23,953,400	22,819,200
Road Fund	66,916,800	71,583,100
Total	90,870,200	94,402,300

Included in the above Road Fund appropriation is $6,852,000 in fiscal year 2000-2001 and $9,691,000 in fiscal year 2001-2002 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2001, shall not lapse and shall carry forward to fiscal year 2001-2002 and remain available throughout the 2000-2002 biennium.

TOTAL - TRANSPORTATION CABINET

	2000-01	2001-02
General Fund	6,208,900	6,749,700
Restricted Funds	94,217,300	94,107,100
Federal Funds	504,751,600	513,855,600
Road Fund	1,095,220,800	1,123,269,600
TOTAL	1,700,398,600	1,737,982,000" ; and

Beginning on page 148, line 26, through page 150, line 24, of HB 502/HCS, by deleting those lines in their entirety and inserting in lieu thereof the following provisions relating to Part II, Capital Projects Budget:

"P. TRANSPORTATION CABINET

Budget Unit	2000-01	2001-02
1. General Administration and Support		
a. Transportation Building Parking Structure - New Construction		
Bond Funds	20,700,000	
b. Powell County Maintenance Facility		
Road Fund	900,000	
c. Mason County Maintenance Facility		
Road Fund		710,000
d. Loadometer & Rest Area Maintenance and Repair		

	Road Fund	600,000	600,000
e.	Building Renovation & Emergency Repairs		
	Road Fund	500,000	500,000
f.	Painting and Roof Replacement		
	Road Fund	250,000	250,000
g.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
h.	Various Waste Treatment & Water Supply Projects		
	Road Fund	100,000	100,000
i.	Hydraulic Hoists, Heavy Equipment		
	Road Fund		100,000
j.	New Transportation Office Building		
	Reauthorization		
	Bond Funds - Additional	7,500,000	
k.	Campbell County Maintenance Facility		
	Road Fund	500,000	
	Restricted Funds	465,000	
	Total	965,000	
l.	Elizabethtown District Office Building		
	Road Fund	3,810,000	
m.	Road Maintenance/Various Parks		
	Road Fund	2,000,000	1,500,000
n.	Electronic Digital Surveying Systems		
	Road Fund	225,000	
o.	Weigh in Motion/Traffic Data Collection Equipment		
	Road Fund	310,000	320,000
p.	Direct Tension Tester for Asphalt		
	Road Fund	140,000	
q.	Soil Resilient Modulus Testing System		
	Road Fund		264,000
r.	X-Ray Fluorescence & X-Ray Diffraction Analyzers		
	Road Fund	155,000	220,000
s.	Mail Inserter/Burster Machine		
	Road Fund	130,000	
t.	MVE Mobile Computers and Peripherals		
	Road Fund		1,000,000
u.	Conversion & Web Pub. of Microfilm Plans		
	Road Fund		325,000; and

On page 272, after line 19 and before line 20, by inserting the following as new Part IX, Special Provisions, and by renumbering accordingly:

" a. Biennial Highway Construction Programs: Notwithstanding KRS 45.245, 45.246, 45.247, and 45.248, and KRS 176.430 and 176.440, to the extent a provision may be in conflict with the provisions in this Section, the General Assembly has appropriated budgetary funds in this Act in addition to prior designated and undesignated fund balances, to be used only for the fiscal biennium 1998-2000 and fiscal biennium 2000-2002 Biennial Highway Construction Programs enacted by the General Assembly in addition to the regular program operations of the Transportation Cabinet.

The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2000-2002 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2002-2003 through fiscal year 2005-2006 as recommended by the Executive Branch to the 2000 General Assembly. This document shall mirror in data type and format the fiscal year 2001-2006 Recommended Six Year Highway Plan as submitted to the 2000 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within sixty (60) days of adjournment of the 2000 General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2000-2002 Road Fund and Transportation Fund resources for the fiscal year 2002-2003 through fiscal year 2005-2006 Highway Preconstruction Program Plan except for the preparation of the fiscal year 2002-2003 to 2007-2008 Six Year Highway Plan to be presented to the 2002 General Assembly. No legislative action on this plan is taken by the 2000 General Assembly. The 2000 General Assembly only enacts the fiscal biennium 2000-2002 Biennial Highway Construction Program and takes no action on the fiscal year 2002-2003 to fiscal year 2005-2006 Preconstruction Program Plan.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission as prescribed by KRS 177.430(8) of all activity relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2) any project additions or modifications that the 2000 General Assembly may make to the fiscal year 2001-2006 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2001-2006 Recommended Six Year Road Plan as submitted by the Executive Branch.

b. Pre-financing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2000-2002 Biennial Highway Construction Plan. Notwithstanding the provisions of KRS Chapter 45, specifically including provisions of KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent, unencumbered project and fund balances are sufficient to satisfy project expenditures consistent with appropriations provided.

AIR TRANSPORTATION

a. Maximize Federal Funds: The Transportation Cabinet shall utilize state Restricted Funds to maximize the matching of Federal Funds. Any funds appropriated to Air Transportation shall be used to support Airport Development Projects identified in the statutory Budget Memorandum.

b. General Aviation Entitlements: General Aviation Entitlements may be utilized to fund projects listed previously. Any project funds being replaced by General Aviation Entitlement Funds shall be allocated to that airport for use on other projects approved by the local Airport Board and the Kentucky Division of Air Transportation.

c. Bluegrass Field Airport: No appropriations made to the Air Transportation budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

d. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less four million dollars ($4,000,000). The four million dollar ($4,000,000) amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

e. Cost Overruns: Projects may overrun up to fifteen percent (15%) if approved by the Division of Air Transportation. If additional Federal Funds become available for Air Transportation related activities, the funds shall be used to support overruns on the above projects around the state. Any balance remaining shall be retained for FB 2002-2004 appropriations.

49. REVENUE SHARING

a. Rural Secondary: Notwithstanding KRS 177.360 (allocation of Rural Secondary moneys), in addition to the $34,000,000 in fiscal year 2000-2001 and $34,000,000 in fiscal year 2001-2002, funding is provided for the projects identified in the Statutory Budget Memorandum. Any remaining balance in the Rural Secondary appropriation shall be allocated in accordance with the provisions of KRS 177.360.

h. Maintenance: Included in the Road Fund appropriation for the Maintenance Program is support for projects as identified in the Statutory Budget Memorandum.

i. Resurfacing: Included in the Road Fund appropriation for the Resurfacing Program is support in the amount of $1,237,900 in fiscal year 2000-2001 for the widening and resurfacing of KY 109 from KY 1508 to KY 56 in Union County.

j. State Contingency: Included in State Contingency for fiscal year 2000-2001 is up to $3,000,000 for widening to three (3) lanes KY 480 from I-65 at milepoint 1.490 to milepoint 2.424 in Bullitt County to support industrial development.

k. Demonstration Projects: The Transportation Cabinet shall provide a quarterly program and financial status report which identifies the expenditure of any funds for the five demonstration projects, to the Interim Joint Committee on Appropriations and Revenue. The report shall provide, at a minimum, the amount and purpose for which the expenditure was made, the projected goals to be accomplished and outcomes, and their status.

l. Lexington to Columbus Study: Included in the Division of Highways is Road Fund support up to $300,000 in fiscal year 2000-2001 for the continuation of the Lexington to Columbus Study that was funded in the 1998-2000 Biennial Budget. The study shall provide the sizing for a high-speed interstate highway and associated traffic study, including the impact on the I-75/I-71 corridor. This study shall be completed by June 30, 2001.

m. A-A Highway Traffic Accident Study: Included in the Division of Highways is Road Fund support totaling $200,000 in fiscal year 2000-2001, which shall be utilized for conducting an intensive traffic study on the A-A Highway in fiscal year 2000-2001. It shall include an analysis of visibility, signage, lighting, turn lanes, and road striping at each public and private access. The accidents shall be identified by location and by fatalities, major injury, noninjury, and minor injury. Causes for the accidents shall be summarized and recommendations made to reduce the high level of accidents on the A-A Highway. A public hearing shall be held on the results of the study at a convenient location along the A-A Highway Corridor no later than September 1, 2001.

n. Transportation Enhancement Funds: The Transportation Cabinet shall provide $25,000 in fiscal year 2000-2001 to perform a design study for the Clays Mill Road Multiuse Trail to connect neighborhoods and the existing sidewalk system with Cardinal Run Park in Fayette County.

o. Notwithstanding KRS Chapter 45A, the Transportation Cabinet shall provide $50,000 in fiscal year 2000-2001 for the purpose of making necessary adjustments to the Switzer Bridge using the same contractor who reconstructed the previous historic structure.

p. "ZVARIOUS" Projects: The Transportation Cabinet shall report on a quarterly basis to the Interim Joint Committee on Appropriations and Revenue on the expenditure of moneys provide for "ZVARIOUS" projects. The report shall include, but not be limited to, the county, type of work, route, costs, and the month in which the activity was performed.

q. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration or project specific money shall be used on the project identified; and (b) all other funds shall be used to ensure that projects in the 2000-2002 Biennial Highway Program are funded.

51. VEHICLE REGULATION

a. Reflectorized License Plates: Notwithstanding KRS 186.240, the Transportation Cabinet shall dedicate the fifty cents ($0.50) collected on every license plate issued to defray the cost to reflectorize the plate, to a special fund that is to be used to issue new reflectorized license plates every five (5) years. The Transportation Cabinet shall report the amounts deposited and expended on an annual basis to the Interim Joint Committee on Appropriations and Revenue.".

The Committee Amendment No. 2 to the Committee Substitute to **HB 502** is as follows:

On page 9, line 12, in the Part I, Operating Budget, by inserting after the word "University." the words: "From the appropriation for agricultural programs at regional universities, the Morehead State University portion of up to $100,000 shall be expended for Ultrasound Equipment."; and

On page 27, line 17, in the Part I, Operating Budget by providing additional General Fund support totaling $5,000,000 in fiscal year 2000-2001 for the Education Technology Escrow Account to be expended based on guidelines established by the Education Technology Master Plan in fiscal year 2001-2002 ; and

On page 28, line 11, in the Part I, Operating Budget, by providing additional General Fund support totaling $750,000 in each year of the fiscal biennium 2000-2002 to the Learning Support Services within the Kentucky Department of Education for the establishment of a professional growth fund; and

On page 28, line 11, in the Part I, Operating Budget, by providing additional General Fund support totaling $750,000 in each year of the fiscal biennium 2000-2002 to the Learning Support Services within the Kentucky Department of Education for the stipend increases for supervisory teachers; and

On page 32, line 16, in the Part I, Operating Budget, by providing additional General Fund support totaling $64,000 each year of fiscal biennium 2000-2002 for the Oral History Commission in the Education, Arts, and Humanities Cabinet; and

On page 73, after line 10, in the Part I, Operating Budget, relating to the Highways budget unit, by inserting the following:

" Included in the State Funded Construction Program is $53,000 in fiscal year 2000-2001 for right-of-way, $80,000 in fiscal year 2000-2001 for utilities, and $400,000 in fiscal year 2001-2002 for the reconstruction of the vertical curve on KY 86 at Howe Valley City Limits in Hardin County (Item Number 04-123.00).

Included in the State Funded Construction Program is support for a 4-way stop light at the intersection of the

Highway 461 By-Pass and Jerry Lane in Rockcastle County in fiscal year 2000-2001. This project shall be completed in calendar year 2000.

Included in the Federal Funded Construction Program is $110,000 in fiscal year 2000-2001 for design and $2,500,000 in fiscal year 2001-2002 for right-of-way for the reconstruction of KY 52 from KY 954 in Garrard County to KY 21 in Madison County. (Item Number 07-201.00).

In the 2000-2006 Six Year Highway Plan, revise the project title of Item Number 10-291.00 to read as follows: West Liberty - Sandy Hook; Improve Existing KY 7 from the West Liberty city limits to KY 519 north of town.

In calendar year 2000, the House provides sufficient funding for a traffic signal at the intersection of Redding Road and Breckinridge Lane in Jefferson County, Kentucky."; and

On page 91, line 25, in the Part I, Operating Budget, relating to the Department of Juvenile Justice, delete "75" and insert "Not to exceed 100" in lieu thereof;

On page 157, line 6, in the Part II, Capital Projects Budget, by deleting the words "English Park Docking Facility" and inserting in lieu thereof the words "Daviess County Waterfront Development"; and on line 7, by deleting "1,300,000" and inserting in lieu thereof "1,105,000"; and

On page 169, line 11, in the Part II, Capital Projects Budget, by deleting a duplicate project funding for the World War II Memorial and inserting in lieu thereof the project "Kentucky Civil War Memorial Museum" in Vicksburg, Mississippi; and on line 12, by deleting "Bond Funds" and inserting "General Fund" and by deleting "312,000" and inserting "250,000"; and

On page 177, line 19, in Part II, Capital Projects Budget, by deleting "50,000" and inserting in lieu thereof "40,000"; and

On page 187, after line 17 and before line 18, in Part II, Capital Projects Budget, by inserting the Community Development, Item 5, Project gf, West Liberty Technology School listed on page 189, lines 17 and 18, in order to identify the project's location in Morgan County; and

On page 191, line 26, in Part II, Capital Projects Budget, by deleting "500,000" and inserting in lieu thereof "375,000"; and

On page 193, after line 13 and before line 14, in Part II, Capital Projects Budget, by inserting the Ashland Waterfront project in Boyd County to be financed with Bond Funds of $200,000 in fiscal year 2000-2001; and

On page 193, after line 20 and before line 21, in Part II, Capital Projects Budget, by inserting the Daviess County Parks Building to be financed with Bond Funds of $195,000; and

On page 193, after line 22 and before line 23, in Part II, Capital Projects Budget, by inserting Green County Projects to be financed with Bond Funds of $150,000; and by inserting the Hancock County Rescue Squad project to be financed with Bond Funds of $20,000, and the Hancock County Water Project to be financed with Bond Funds of $115,000; and

On page 194, after line 16 and before line 17, in Part II, Capital Projects Budget, by inserting the Pulaski County Southeast Water Association project to be financed with Bond Funds of $350,000; and

On page 194, after line 16 and before line 17, in Part II, Capital Projects Budget, by inserting the Russell County projects for the Jamestown Water Industrial Authority to be financed with Bond Funds of $150,000, and for the Russell Springs Sewer and Water project to be financed with Bond Funds of $175,000; and

by renumbering the provisions, and adjusting the subtotals and totals accordingly.

The Committee Amendment No. 3 Title to **HB 502** is as follows:

By amending the title to read as follows:

"AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.".

The Committee Substitute No. 1 to **HB 576** is as follows:

HB 576, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

			2000-01	2001-02
1.	General Assembly			
	General Fund	9,812,300	13,312,300	
	Restricted Funds		153,500	97,300
	Total		9,965,800	13,409,600

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost of living adjustment authorized for the 1998-2000 biennium. Notwithstanding KRS 6.190, 6.213, and 6A.020, the daily compensation provided by KRS 6.190 and 6A.020 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 1998-2000 biennium and shall continue as adjusted on January 1, 2001, and January 1, 2002, by the all urban consumer price index (CPI-U) not to exceed 5 percent (5%) per annum but not less than zero percent (0%) per annum.

			2000-01	2001-02
2.	Legislative Research Commission			
	General Fund	26,638,100	27,304,100	
	Restricted Funds		2,200	2,200
	Total		26,640,300	27,306,300

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in fiscal year 2000-2001 and 261 in fiscal year 2001-2002. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

The above General Fund appropriation includes $150,000 in fiscal year 2001-2002 for the capital project authorized in the Capital Projects Budget, Part II. Project funds may be transferred to the Capital Construction Fund.

TOTAL - OPERATING BUDGET

		2000-01	2001-02
General Fund	36,450,400	40,616,400	
Restricted Funds		155,700	99,500
TOTAL		36,606,100	40,715,900

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse but shall continue into the 2000-2001 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

			2000-01	2001-02
1.	Legislative Research Commission			
	a.	Printing/color duplicating machine		
	General Fund		150,000	
	TOTAL			150,000

The amount listed above is not in addition to the funds appropriated in the Operating Budget, Part I.

TOTALS - LEGISLATIVE BRANCH BUDGET

		2000-01	2001-02
General Fund	36,450,400	40,616,400	
Restricted Funds		155,700	99,500
TOTAL		36,606,100	40,715,900

PART III

GENERAL PROVISIONS

1. The Director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit

the expenditure of funds appropriated to the legislative branch of government.

2. The Director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 Regular Session of the General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the Director of the Legislative Research Commission to prepare a final budget document reflecting the 2000-2002 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

9. Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the General Assembly the sum of two hundred fifty dollars ($250). This allowance shall be paid out of the State Treasury at the beginning of the session.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Committee Substitute No. 1 to **HB 577** is as follows:

HB 577, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund, local facilities use allowance contingency fund, and for services performed by the Circuit Clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2000-01	2001-02
General Fund	135,498,200	142,958,800
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
Total	145,612,700	152,900,800

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 2000-2001 and in fiscal year 2001-2002 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 2000-2001 and a five percent (5%) adjustment for the justices and judges in fiscal year 2001-2002. Also included are funds for the salaries of the circuit clerks in fiscal year 2000-2001 and fiscal year 2001-2002 as provided for in the judicial branch recommendation. Notwithstanding KRS 23A.040 and KRS 23A.045, the Circuit Court judgeships in Floyd County (31st Circuit) and Christian County (3rd Circuit) created by the 1998 General Assembly are established as family court judgeships. General Fund amounts are included in fiscal year 2000-2001 and fiscal year 2001-2002 to provide for the continuation of these judgeships and related family court pilot projects.

Included in the above General Fund appropriation is $15,000 in each fiscal year to support the additional cost to reclassify the secretarial position of the 49th Judicial District from part-time to full-time.

b. Local Facilities Fund

	2000-01	2001-02
General Fund	39,091,100	47,280,500

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse and shall continue into fiscal year 2000-2001, and any unexpended balance at the close of fiscal year 2000-2001 shall not lapse and shall be continued into fiscal year 2001-2002.

The Christian County Courthouse project shall not be expanded in project scope and shall not receive any funds in excess of $764,900 annual use allowance as authorized by the 1998 General Assembly.

c. Local Facilities Use Allowance Contingency Fund

	2000-01	2001-02
General Fund	-0-	-0-

Notwithstanding KRS 45.229, General Fund support totaling $414,500 in fiscal year 1999-2000 shall not be expended, but be continued into fiscal year 2000-2001 and appropriated to the Local Facilities Fund. Notwithstanding KRS 45.229, any remaining unexpended balance shall not lapse, but be continued into fiscal year 2000-2001 to provide for cost overruns in court facilities projects authorized by the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun not to exceed fifteen percent (15%) shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The Director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Local Facilities Fund as required for any authorized cost overruns.

Total Court of Justice

	2000-01	2001-02
General Fund	174,589,300	190,239,300
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
Total	184,703,800	200,181,300

2. Judicial Form Retirement System

	2000-01	2001-02
General Fund	4,616,700	4,633,400

General Fund amounts are included to provide for the 1999 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $420,000 in each fiscal year contingent upon passage of enabling legislation related to the senior status program for special judges.

TOTAL - OPERATING BUDGET

	2000-01	2001-02
General Fund	179,206,000	194,872,700
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
TOTAL	189,320,500	204,814,700

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects

The multiyear schedule for the use allowance payments for the capital costs for each local facility is contained in the Judicial Branch Budget Recommendation.

a. Casey County - Project Scope	6,837,200

b.	Muhlenberg County - Project Scope	6,958,500
c.	Simpson County - Project Scope	7,263,700
d.	Carter County - Project Scope	7,472,100
e.	Boone County - Additional Scope	8,328,100
f.	Bourbon County - Additional Scope	2,400,000
g.	Harlan County - Additional Scope	5,070,400
h.	Harrison County - Additional Scope	3,079,700
i.	Franklin County - Lease Office Space (Millcreek Park)	
j.	Franklin County - Lease Court of Appeals (Democrat Drive)	
k.	Jefferson County - Courts Parking Lease	

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

Financing for the Casey County Courthouse project is provided in the State/Executive Branch Budget, House Bill 502, Part II, Capital Projects Budget.

Any court facility project authorized by the 2000 General Assembly shall be subject to standards and guidelines adopted by the Chief Justice. A written agreement, as specified by the Administrative Office of the Courts shall be executed by the county and the Administrative Office of the Courts before any action on any authorized project shall commence. The written agreement shall specify the requirements of the county and the Administrative Office of the Courts relating to the project. Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

TOTAL - JUDICIAL BRANCH BUDGET

	2000-01	2001-02
General Fund	179,206,000	194,872,700
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
TOTAL	189,320,500	204,814,700

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2000, and June 30, 2001, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2000-2002 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the

adjournment of the 2000 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the Report of Committees on recommitted bills having one reading constitutes the second reading of those bills. Agreed.

Representative R. Adams moved the adoption of the following **Legislative Citation No. 105**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Irvin C. Dringenburg and offers its sincerest condolences to the Dringenburg Family and to all those who share in the loss of this distinguished Kentucky citizen. The devoted husband of Betty Lockwood Dringenburg; cherished father of Cheryl Saalfeld, Duane Dringenburg and Greg Dringenburg; and the devoted grandfather of two grandchildren; this esteemed gentleman was a cattle farmer and an associate engineer with Cincinnati Bell. An outstanding citizen who believed in giving back to the community, he helped organize Pee Wee Football leagues in Boone County, coached Knothole and American Legion baseball teams, and filmed the Boone County High School football games. Further, he was a member of Hopeful Lutheran Church; Masonic Lodge No. 949 F&AM; Indra Consistory Scottish Rite; Order of Eastern Star, Rosebud Chapter; White Shrine; and Telephone Pioneers of America. Mr. Dringenburg will long be remembered for the honesty, compassion and integrity with which he lived his life and for the remarkable enthusiasm he exhibited toward the youth of his community. The members of this most honorable body join with Representative Royce Adams in adjourning this legislative day in memory and honor of this highly-regarded Kentucky citizen for the contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this thirteenth day of March, in the year two thousand.

Legislative Citation No. 105 was adopted without objection.

On the roll call to show co-sponsors on **Legislative Citation No. 105**. (See March 13, 2000 roll call on the motion to show co-sponsors to **Legislative Citation No. 105**-Appendix.)

Representative Alexander moved the adoption of the following **Legislative Citation No. 106**.

The House of Representatives of the Commonwealth of Kentucky hereby affords highest esteem and regard to Joyce Grigsby for the richness of her contributions to the members of her community as an esteemed citizen of Hazard, Kentucky. This phenomenal woman has provided a sterling example for others to follow by her consummate devotion to her family, friends and community and, as a result, has earned the most sincere admiration and affection of all those whose lives have been touched by her compassionate presence. An invaluable employee of the Perry Farm Center, Ms. Grigsby has offered kind and courteous service to those who seek her assistance and has proven an inestimable asset to this company and all whom it serves. Having recently faced circumstances of great adversity, this distinguished lady is further offered most ardent respect for the immense courage and bravery that she has so consistently displayed throughout these difficult times. Inasmuch as Joyce Grigsby has truly earned these accolades which she is offered, the members of this august body are delighted to join with Representative Scott Alexander in commending the perseverance and vitality of this phenomenal woman and in extending to her sincere best wishes for happiness and fulfillment as she continues to be an extraordinary presence in the lives of those around her. Done in Frankfort, this thirteenth day of March, in the year two thousand.

Legislative Citation No. 106 was adopted without objection.

Representative Johns moved that **HB 945** be withdrawn. Agreed.

Representative Ratliff moved that Floor Amendment No. 35 to **HB 992** be withdrawn. Agreed.

Representative Ratliff moved that Floor Amendment No. 12 to the Committee Substitute to **HB 992** be withdrawn. Agreed.

Representative Reinhardt moved that **HB 289** be withdrawn. Agreed.

Representative Wayne moved that Floor Amendment No. 1 to **HB 322** be withdrawn. Agreed.

Representative Wayne moved that Floor Amendment No. 2 to **HB 322** be withdrawn. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **HB 571** and **HB 177**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 177**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **HB 822** and **HB 258**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that his vote be changed from "nay" to "yea" on **HB 866**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on Floor Amendment No. 21 to **HB 992**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 886**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 572**. Agreed.

Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 822**. Agreed.

Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 896**. Agreed.

Representative Cox moved that he be recorded as voting "nay" on **HB 996**. Agreed.

Representative Cox moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 20 to **HB 992**. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palmer moved that he be recorded as voting "yea" on **HB 763**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cherry moved that he be recorded as voting "nay" on **HB 1**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 887, HB 901, HB 856, HB 771, HB 896, HB 768, HB 870, HB 914, HB 946,** and **HB 992**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 855**, by Representative Treesh:

On page 1, line 3, by changing "***8***" to "***4***"; and

on page 1, by deleting all of lines 7, 8, 9, and 10; and

on page 1, line 11, by changing "***(5)***" to "***(3)***"; and

on page 1, line 15, by changing "***(6)***" to "***(4)***"; and

on page 1, line 20, by changing "***8***" to "***4***"; and

on page 1, by deleting lines 22, 23, 24, and 25; and

on page 2, by deleting lines 1 and 2; and

on page 2, line 3, by changing "***(8)***" to "***(5)***"; and

on page 2, line 9, by changing "***(9)***" to "***(6)***"; and

on page 2, by deleting all of lines 16 through 20; and

on page 2, line 21, by deleting "***(3)***"; and

on page 2, line 22, by deleting "***the growing, handling,***"; and

on page 2, line 23, by deleting "***manufacture, production, and***", and deleting "***of***", and replacing it with "***on***"; and on page 2, by deleting all of lines 24 through 27; and

on page 3, by deleting lines 1 through 3; and

starting on page 3, by deleting all of Sections 3, 4, 5, and 6; and

on page 6, line 19, by changing "7" to "3"; and

on page 7, lines 2, 3, and 4, by deleting "***,and is waived from the state licensure procedure to grow hemp for industrial hemp and hemp seed research***"

on page 7, line 24, after "***This***" by inserting "***exemption from criminal liability***"

on page 8, line 13, by changing "8" to "4"; and

on page 8, line 15, by deleting "***(1)***"; and

starting on page 8, line 26, by deleting the rest of the section.

Floor Amendment No. 2 to the Committee Substitute to **HB 762**, by Representative Bather:

On page 1, line 7, after "***providers***", by inserting "***providing services to Medicaid recipients***"; and

On page 1, line 8, after "***providers***" by inserting, "***providing services to Medicaid recipients***"; and

On page 1, line 20, by inserting "***gender,***" after "***racial,***"; and

On page 2, line 2, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 2, by deleting "***or***"; and

On page 2, line 5, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 5, by deleting "***or***"; and

On page 2, line 8, by inserting "***gender, and***" after "***racial,***"; and

On page 2, line 8, by deleting "***or***"; and

On page 2, line 13, by deleting "***regarding***" and inserting "***governing***"; and

On page 2 by deleting lines 15 to 27 in their entirety and inserting the following in lieu thereof:

"***(4) The Department for Medicaid Services shall monitor adherence to the provisions of this section in accordance with its responsibility under KRS 194A.050 to enforce all state laws and all administrative regulations relating to Medicaid.***"; and

On page 3, line 1, by deleting "***(7)***" and inserting "***(5)***" in lieu thereof; and

On page 5, line 9, after "***design***" by inserting "***in all geographic locations, including urban and rural***".

Floor Amendment No. 1 to **HB 936**, by Representative Richards:

On page 1, at line 10, after the word "***consider***", by adding the words "***and act upon***".

Floor Amendment No. 1 to **HB 930**, by Representative McKee:

On page 3, line 5, after the word "***telephone***", by inserting the following: "***, at least ten (10) calendar days prior to the expiration of the free trial offer,***"; and

On page 3, line 6, by deleting "***has ended***" and inserting the following in lieu thereof: "***is going to end***".

Floor Amendment No. 1 to the Committee Substitute to **HB 519**, by Representative Miller:

On page 3, line 11 by deleting "***or part-time***".

Floor Amendment No. 1 to the Committee Substitute to **HB 389**, by Representative Geveden:

On page 10, line 27, by inserting after "***credit***" the following: "***, excluding service obtained under KRS 61.552(26),***"; and

On page 11, line 1, by inserting after "***service***" the following: "***, excluding service obtained under KRS 61.552(26),***"; and

On page 17, line 14, by inserting after "***credit***" the following: "***, excluding service obtained under KRS 61.552(26),***"; and

On page 17, line 15, by inserting after "***service***" the following: "***, excluding service obtained under KRS 61.552(26),***".

Floor Amendment No. 1 to **SCR 39**, by Representative Damron:

On page 2, line 10, by deleting "26" and inserting "27"; and

On page 2, line 22, by deleting "Fifteen" and inserting "Sixteen" in lieu thereof; and

On page 3, line 11, by deleting "and"; and

On page 3, line 13, by deleting "." and inserting "; and"; and

On page 3, by inserting between lines 13 and 14, "(o) An area development district.".

Floor Amendment No. 1 to the Committee Substitute to **HB 155**, by Representative Nunn:

On page 7, after line 12, by inserting the following:

"Section 7. KRS 45A.343 is amended to read as follows:

(1) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No other statutes governing purchasing shall apply to a local public agency upon adoption of these provisions.

(2) After July 15, 1994, any contract entered into by a local public agency, whether under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor and all subcontractors performing work under the contract to:

(a) Reveal any final determination of a violation by the contractor or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor; and

(b) Be in ***substantial***~~[continuous]~~ compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor for the duration of the contract.

(3) A contractor's failure to reveal a final determination of a violation by the contractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

(4) A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's disqualification of the subcontractor from eligibility for future contracts for a period of two (2) years.".

Floor Amendment No. 2 to the Committee Substitute to **HB 728**, by Representative Geveden:

Page 2 , line 9 after the word "***body***" insert the words "***for which the Personnel Cabinet provides personnel and payroll services except for any board governing any of the Kentucky Retirement Systems, the Kentucky Higher Education Assistance Authority, or the Council on Postsecondary Education***".

Page 3, line 22 after the word "***body***" insert the words "***for which the Personnel Cabinet provides personnel and payroll services except for any board governing any of the Kentucky Retirement Systems, the Kentucky Higher Education Assistance Authority, or the Council on Postsecondary Education***".

Floor Amendment No. 1 to **HB 629**, by Representative Barrows:

On page 3, line 20, by deleting "***quasi governmental organization or entity***" and inserting "***public trust***" in lieu thereof

On page 4, line 3, by deleting lines 3 through 9 in their entirety, beginning with "***(e)***" on line 3, and ending with "***entity;***" on line 9.

On page 4, line 10, by deleting "***(g)***" and inserting "***(e)***" in lieu thereof.

On page 4, lines 10 through 13, by deleting all the language beginning with "***Provide***" on line 10, and ending with "***,and***" on line 13, and by inserting the following language in lieu thereof:

"***Provide that the Governor shall appoint two (2) additional, at-large, voting members of the board of directors of the foundation created by the settlement agreement; and***"

On page 4, line 14, by deleting "***(h)***" and inserting "***(f)***" in lieu thereof.

On page 4, line 14, through page 5, line 24, by deleting all the language beginning with "***Provide***" on page 4, line 14, and ending with "***Revenue.***" on page 5, line 24 and by inserting the following language in lieu thereof.

"***Provide written notice of any disbursements of funds or assets to the co-chairs of the Interim Joint Committee*** *on Appropriations and Revenue, the secretary of the Finance and Administration Cabinet, and the state controller within thirty (30) days after making disbursements. Within forty-five (45) days after receipt of the notice of disbursement of funds or assets in accordance with this subsection, the Interim Joint Committee on Appropriations and Revenue may hold a hearing on the disbursements. If requested by the Appropriations and Revenue Committee, members of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity seeking disbursement and the person, organization, or other entity receiving the disbursement shall appear and give testimony concerning the proposed disbursement. Following the hearing, the Interim Joint Committee on Appropriations and Revenue shall make findings concerning whether or not the disbursement:*

1. Is consistent with the nature, character, and purpose for which the funds were recovered;

2. Is in the best interest of the beneficiaries; or

3. Is in the best interest of the Commonwealth.

A copy of the findings shall be mailed or otherwise delivered to the entity or organization seeking disbursement, the secretary of the Finance and Administration Cabinet, and the state controller within ten (10) days of the hearing."

Floor Amendment No. 1 to the Committee Substitute to **HB 533**, by Representative Wilkey:

On page 3, line 21, by deleting, "*to assist*" and inserting in lieu thereof, "*for purposes of assisting*", and by deleting, "*in*" and inserting in lieu thereof, "*during*".

Floor Amendment No. 2 Title to **HB 378**, by Representative Geveden:

By amending the title to read as follows: AN ACT relating to civil actions.

Floor Amendment No. 1 to the Committee Substitute to **HB 378**, by Representative Geveden:

On page 1, line 1, and continuing through page 2, line 25, by deleting the entirety of Sections 1, 2, and 3 and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Miscarriage" means the interruption of the normal development of the fetus, other than by a live birth or by an induced abortion as permitted by law, and that results in the complete expulsion or extraction of the fetus from the pregnant woman; and

(b) "Stillbirth" means the death of a fetus prior to the complete expulsion or extraction from a woman without regard to the duration of the pregnancy and that is not an induced abortion as permitted by law.

(2) In addition to any other damages allowable by law, an action brought by a woman for personal injury may include recovery for the loss of her fetus if the personal injury results in miscarriage or stillbirth.

(3) The damages provided for in subsection (2) of this section shall survive the death of the pregnant woman and an action for the recovery of those damages may be brought or maintained by her personal representative.

(4) Nothing in this section shall apply to:

(a) Acts of physicians that cause the death of a fetus if those acts were committed:

1. During any abortion to which the woman has consented;

2. Incident to an in vitro fertilization procedure; or

3. As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the physician exercised that degree of care and skill which an ordinarily careful, skilled, and prudent physician would exercise under the same or similar circumstances; or

(b) Acts of a pregnant woman that cause the death of her fetus.".

Floor Amendment No. 4 to the Committee Substitute to **HB 502**, by Representative Weaver:

On page 3, line 25, by deleting "7,453,300" and replacing it with "7,172,300", and

On page 3, line 25, by deleting "14,108,800" and replacing it with "14,139,800", and

On page 4, lines 10 and 11, by deleting the following:

"Included in the above General Fund appropriation in fiscal year 2000-2001 is $312,000 grant funds for the World War II War Memorial in Washington, D.C.".

On page 4, after line 11 but before line 12, by adding the following:

"Included in the above General Fund appropriation in each fiscal year is $31,000 to be used for additional staffing needs.", and by adjusting all subsequent subtotals and totals accordingly.

Floor Amendment No. 2 Title to **HJR 141**, by Representative Riner:

By amending the title to read as follows: "A JOINT RESOLUTION recommending that Kentucky's four-year public universities establish a Scouting and Civil Air Patrol Scholarship Program modeled after the successful Eagle Scout Scholarship Program at the University of Louisville."

Floor Amendment No. 1 to the Committee Substitute to **HJR 141**, by Representative Riner:

On page 1, by deleting each of the five "WHEREAS" clauses in their entirety and inserting in their place the following:

"WHEREAS, young men who earn the Eagle Scout rank in Boy Scouts of America and the Mitchell Award in the Civil Air Patrol, and young women who earn the Gold Award in the Girl Scouts of America, are recognized for outstanding performance and achievement in their communities; and

WHEREAS, these young men and women have demonstrated high principles of character, commitment to excellence, leadership, and service to their communities; and

WHEREAS, the importance of scouting programs is evident in many communities, and especially for African American males who often face tremendous obstacles, by providing support and structure for building character and developing potential of each young person; and

WHEREAS, the scholarships awarded to Eagle Scouts under the University of Louisville's Trustees Scholarship Program recognizes outstanding scholar scouts and should be replicated across the Commonwealth; and

WHEREAS, The Commonwealth of Kentucky needs to retain its brightest and most talented students in its public institutions;";

On page 1, line 2, by deleting "at least one (1) permanent and continuing competitive Eagle Scout" and inserting in its place "a Scouting and Civil Air Patrol";

On page 1, line 4, by deleting "Eagle Scouts who achieve:" and inserting in its place, "young people who have been awarded the Gold Award by the Girl Scouts or the Mitchell Award by the Civil Air Patrol, or who have achieved the rank of Eagle Scout in the Boy Scouts.

Section 2. A university may award a scholarship to a Girl Scout, Boy Scout, or Civil Air Patrol Cadet based on the following criteria that may include:

(1) Kentucky residency;

(2) A high ACT score;

(3) A grade point average of at least 3.0 upon graduating from high school;

(4) Active membership in a Girl Scout troop, a Boy Scout explorer post or venture unit, or a Civil Air Patrol squadron during and until graduation from high school; and

(5) Financial need of the Girl Scout, Boy Scout or Civil Air Patrol Cadet.

Section 3. The university shall create other eligibility criteria of equal weight that will ensure the greatest number of African Americans awarded the Gold Award by the Girl Scouts or the Mitchell Award by the Civil Air Patrol, or who have achieved the rank of Eagle Scout in the Boy Scouts will have the greatest likelihood of being awarded a scholarship under this program. In determining the eligibility criteria, consideration shall be given to volunteer or leadership positions in school, civic, community, and religious organizations.";

On page 1, by deleting lines 5 through 12 in their entirety;

On page 2, by deleting line 1 in its entirety;

On page 2, line 2, after "Section" by deleting "3" and inserting in its place "4"; and

On page 2, line 6, after "Section" by deleting "4" and inserting in its place "5".

Floor Amendment No. 2 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 233, after line 4 by inserting the following:

" 34. Notwithstanding the provisions of KRS 132.020, the state tax rate on motor vehicles assessed under KRS

132.485 shall be twenty-two and one-half cents ($0.225) per one hundred dollars ($100) of assessed value for motor vehicles with a registration renewal date between July 1, 2000, to June 30, 2001. Motor vehicles assessed under KRS 132.485 with an registration renewal date between July 1, 2001, to June 30, 2002, shall be exempt from the ad valorem tax for state tax purposes. The cost of the ad valorem tax rate reduction and exemption shall be funded by an across the board reduction in each General Fund appropriation unit contained in this Act.".

Floor Amendment No. 3 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 233, after line 4 by inserting the following:

" 34. Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem taxes for state purposes. The exemption shall apply to motor vehicles with registration renewal dates between July 1, 2000, to June 30, 2002. The cost of the ad valorem tax exemption shall be funded by an across the board reduction in each General Fund appropriation unit contained in this Act.".

Floor Amendment No. 8 to the Committee Substitute to **HB 437**, by Representative Moberly:

On page 14, line 18, after "***board***" by inserting "***, notwithstanding the provisions of KRS 64.640***"; and

On page 15, line 13, after "***(a)***" by deleting all language through the end of line 27;

On page 16, line 1, by deleting all language through the end of line 16;

On page 16, line 17, by deleting "***(c)***";

On page 16, line 21, after "***programs***" by deleting "***to those teachers identified as lacking sufficient preparation in one (1) or more content areas that they are teaching***";

On page 16, line 23, by changing "***(d)***" to "***(b)***";

On page 16, lines 23 and 24, by deleting "***middle school***";

On page 16, line 24, after "***teachers***" by deleting "***who have been identified as needing additional preparation***";

On page 17, line 5, after "***purpose.***" by inserting "***Priority for the funds shall be given to middle school teachers with certificates to teach in Grades K-8.***";

On page 17, line 6, by deleting all language through the end of line 8;

On page 33, line 13, after "***employees***" by inserting "***, notwithstanding the provisions of KRS 64.640***"; and

On page 106, between lines 3 and 4, by inserting

"Section 44. The Education Professional Standards Board shall study the issues relating to the preparation of teachers in their subject matter areas and make a report with recommendations to the Interim Joint Committee on Education by August, 2001."; and

On page 106, line 4, by changing "44" to "45".

Floor Amendment No. 1 to the Committee Substitute to **HB 640**, by Representative Lee:

On page 4, line 4, after "(7)" by inserting the following:

"***Funding provided to the Cabinet for Families and Children for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.***

(8)";

On page 4, line 11, at the beginning of the line by inserting "***(9)***" and bracketing and striking through "(8)"; and

On page 4, line 15, after "Section 2." by inserting the following:

" KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020; and

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult and Technical Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (6) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(6) ***Local districts shall provide in contracts with classified employees of family resource and youth services centers the same rate of salary adjustment as provided for other local board of education employees in the same classification.***

(7) Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8)[~~(7)~~]The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9)[~~(8)~~]Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10)[~~(9)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11)[~~(10)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 3."

Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 390**, by Representative Collins:

On page 31, line 25 after "***disability,***" and before the second use of "a" by inserting "***a congenital condition,***";

On page 32, line 2, after the first use of "***person***" and before the comma by inserting "***or authorized person***"; and

On page 32, line 27 after "***disabling,***" and before "***or***" by inserting "***congenital,***".

Floor Amendment No. 1 to the Committee Substitute to **HB 502**, by Representative Treesh:

On page 283, after line 17, by adding the following:

PART XIII

TAX REBATE PROVISIONS

Section 1. (1)The Secretary of the Finance and Administration Cabinet shall determine within thirty (30) days after the close of each fiscal year the amount of the fund balance of the general fund surplus account.

(2) If the amount of the fund balance of the general fund surplus account is less than one hundred million dollars ($100,000,000), the amount of the fund balance shall remain in the general fund surplus account unless appropriated by the General Assembly or unless required by the budget reduction provisions of branch budget bill, or as provided by KRS 48.130.

(3) If the amount of the fund balance of the general fund surplus account is one hundred million dollars ($100,000,000) or more, the amount of the fund balance shall be deposited as follows:

(a) Fifty percent (50%) to the budget reserve trust fund account as provided in Section 6 of this Part; and

(b) Fifty percent (50%) to the individual income tax rebate fund account as provided in Section 3 of this Part.

Section 2. As used in this section and Section 3 of this Part unless the context requires otherwise:

(1) "Eligible taxpayer" means an individual who has filed a timely tax return for the tax rebate year and is eligible for a tax rebate.

(2) "Tax liability" means the amount of tax liability computed and processed by the Revenue Cabinet on the tax return for the tax rebate year. In the case of a married couple filing separate on a combined return, tax liability means the combined amount of tax liability computed and processed by the Revenue Cabinet on the tax return for the tax rebate year.

(3) "Tax rebate" means the amount determined by multiplying each eligible taxpayer's tax liability by the tax rebate percentage but does not include any amounts of five dollars ($5.00) or less.

(4) "Tax rebate percentage" means the percentage determined by dividing the amount available in the individual income tax rebate fund account by the total tax liability of all eligible taxpayers.

(5) "Tax rebate year" means the tax year ending eighteen (18) months prior to the close of the fiscal year from which money is deposited in the individual income tax rebate fund account.

(6) "Timely tax return" means a tax return filed on or before April 15 of the tax rebate year or on or before the due date as extended by the Revenue Cabinet.

Section 3. (1)There is created in the State Treasury an individual income tax rebate fund account to be used to provide individual income tax rebates as provide in this section.

(2) The Secretary of the Revenue Cabinet shall determine the amount of tax rebate due each eligible taxpayer by September 30 of the fiscal year in which money is deposited in the individual income tax rebate account. Rebate checks shall be mailed to each eligible taxpayer by October 31 of the fiscal year in which money is deposited in the individual income tax rebate account. Rebate checks not cashed for any reason within one (1) year from the date of issue shall voided and the balance of the individual income tax rebate account shall be deposited in the general fund surplus account and the eligible taxpayer shall forfeit the right to receive a tax rebate for that tax rebate year.

(3) The amount of the tax rebate determined for an eligible taxpayer under Section 2 of this Part shall not be adjusted for any subsequent changes to the tax liability.

Section 4. KRS 48.140 is amended to read as follows:

(1) The branch budget recommendation submitted by the Governor, the Chief Justice, and the Legislative Research Commission shall include a plan for the expenditure of [~~general or~~] road fund tax receipts up to two and one-half percent (2.5%) in excess of the tax receipts estimates for the ***road fund*** [~~funds~~] as determined by subsection (3) of KRS 48.120.

(2) The plan shall contain provisions for the expenditure of ***the excess*** [~~such excess general fund and~~] road fund tax receipts. This plan shall provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a branch budget bill, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded. No expenditure shall be recommended for any other purpose.

(3) In lieu of recommending the expenditure of [~~such~~] sums, the Governor, the Chief Justice, or the Legislative Research Commission, may elect to recommend the return of ***road fund tax receipts*** [~~such sums~~] or any portion [~~thereof~~] to the surplus account of the [~~general fund or~~] road fund for investment until such time as it is appropriated by the General Assembly.

(4) A plan for the expenditures of [~~such~~] surplus ***road*** funds shall be enacted as modified by the General Assembly in each

branch budget bill.

(5) In the event of a surplus in tax receipts provided for by this section, the Finance and Administration Cabinet shall notify all branches of government.

(6) ~~[Except as provided in KRS 48.705,]~~ any ~~[general or]~~ road fund receipts in excess of two and one-half percent (2.5%) of the tax revenue estimates determined under subsection (3) of KRS 48.120, or in excess of any appropriation made in a branch budget bill applying ***the*** ~~[such]~~ receipts shall not be expended but shall accrue to the surplus account of the ~~[general fund or]~~ road fund for investment until appropriated by the General Assembly.

(7) Unless required by the budget reduction provisions in a branch budget bill, no funds shall be transferred from one budget unit to another budget unit.

~~[(8) Surplus funds in any account, unless a statute requires otherwise, shall lapse to the surplus account of the general fund for investment until appropriated by the General Assembly.~~

~~(9) Funds in the surplus account of the general fund may be used for current expenditures as authorized by the budget reduction provisions of a branch budget bill.]~~

Section 5. KRS 48.700 is amended to read as follows:

There is hereby created in the general fund of the State Treasury a surplus fund account subject to the following terms and conditions:

(1) It shall contain all ***general fund receipts in excess of the tax revenue estimates determined under subsection (3) of KRS 48.120, or in excess of any appropriation made in a branch budget bill applying the receipts*** ~~[surplus tax receipts accruing to the general fund as provided by subsection (6) of KRS 48.140]~~.

(2) ~~[Except as provided in KRS 48.705,]~~it shall contain all funds lapsed from general fund receipts not otherwise appropriated.

(3) It shall contain all receipts from the sale of surplus property purchased with general fund tax receipts and not otherwise appropriated.

(4) ***It shall contain any amounts as provided in subsection (2) of Section 6 of this Part*** ~~[Except as provided in KRS 48.705, it shall contain all general fund tax revenues in excess of estimates]~~.

(5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the general fund.

(6) Funds in the account shall be invested at interest and the interest shall also accrue to this account.

(7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the general fund.

(8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by the budget reduction provisions of a branch budget bill, or as provided by KRS 48.130.

Section 6. KRS 48.705 is amended to read as follows:

(1) A budget reserve trust fund account is hereby created in the general fund, pursuant to KRS 45.305. The budget reserve trust fund account shall be funded through direct appropriations, ***deposits as provided by Section 1 of this Part*** ~~[surplus revenue receipts in the general fund, and certain unexpended appropriations]~~. Moneys in the account shall remain unallotted unless required by the provisions of this section.

(2) ~~[(a) Beginning with the fiscal year starting on July 1, 1995, and for each fiscal year thereafter, except as provided in subsection (3) of this section, within thirty (30) days of the end of each fiscal year, the secretary of the Finance and Administration Cabinet shall cause to be deposited to the budget reserve trust fund account the lesser of the following amounts:~~

~~1. Fifty percent (50%) of all general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.400(3) for the year just ended; and fifty percent (50%) of the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the general fund surplus account under KRS 45.229; or~~

~~2. The amount necessary, from general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.400(3) for the year just ended, and from the unexpended balance of all general fund appropriations for the fiscal year just ended that would otherwise lapse to the surplus account under KRS 45.229, to make the balance of the budget reserve trust fund account equal to five percent (5%) of the actual general fund revenue receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet.~~

~~(b) Any amounts to be deposited to the budget reserve trust fund account from general fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3) or the amount subsequently certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.400(3) shall be determined after the excess receipts~~

~~have been reduced by the amount necessary to implement the provisions of any surplus expenditure plan authorized by KRS 48.140 and enacted as a part of a branch budget bill.~~

~~(3)]~~ If, at the close of any fiscal year, the budget reserve trust fund account has a balance equal to or greater than five percent (5%) of the actual general fund revenue receipts collected during the fiscal year just ended, as determined by the Finance and Administration Cabinet, the ***amount in excess of five percent (5%) shall be deposited in the general fund surplus account*** ~~[deposits required under subsection (2) of this section shall be suspended for that year]~~.

(3)~~[(4)]~~(a) Moneys in the budget reserve trust fund account may be appropriated by the General Assembly in a regular or special session.

(b) Funds from the budget reserve trust fund account may be used pursuant to the provisions of KRS Chapter 47 if actual general fund revenue receipts are not sufficient to meet the general fund appropriation levels authorized by the General Assembly in the branch budget bills for the executive, legislative, and judicial branches, as determined under KRS 48.130 and 48.600, or an appropriation provision in any act.

(4)~~[(5)]~~Before authorizing any allotments from the budget reserve trust fund account, the secretary of the Finance and Administration Cabinet shall notify in writing the Interim Joint Committee on Appropriations and Revenue. The notice shall include the amount and purpose for the proposed allotment.

(5)~~[(6)]~~Within thirty (30) days of the close of each fiscal year, the secretary of the Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue the general fund revenue receipts collected for the fiscal year just ended, the balance of the budget reserve trust fund account, and any amounts deposited to the budget reserve trust fund account pursuant to the provisions of subsection ***(1)***~~[(2)]~~ of this section.

(6)~~[(7)]~~All sums appropriated or deposited to the budget reserve trust fund account shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year and shall remain available for the purposes of this section.

Section 7. KRS 131.560 is amended to read as follows:

Notwithstanding the provisions of KRS 44.030 or 131.190, the Revenue Cabinet shall withhold the Kentucky individual income tax refund otherwise due a taxpayer under KRS Chapter 141 ***and the tax rebate due under Section 3 of this Part*** who owes overdue child support or is indebted to any state agency, officer, board, commission, corporation, institution, cabinet, department or other state organization which has complied with the requirements of KRS 131.565. After satisfaction of any undisputed delinquent tax liability due the Revenue Cabinet from ***the*** ~~[such]~~ taxpayer, the tax refund balance so withheld ***and the tax rebate balance so withheld*** shall, except as provided in KRS 131.565, be transmitted as soon as practicable to the state agency having established a claim~~[therefor]~~. In the case of multiple state agency claims against the same tax refund ***and tax rebate***, the agency having the larger pending claim shall have priority after satisfaction of any undisputed delinquent tax liabilities due the Revenue Cabinet.".

Floor Amendment No. 1 to the Committee Substitute to **HB 524**, by Representative Wayne:

On page 1, line 11 by deleting the word "***wanton***" and by inserting in lieu thereof "***capricious***"; and

On page 1, beginning on line 22 and continuing on to page 2, line 8 by deleting subsection (3) in its entirety; and

On page 5, on line 23 by deleting the word "***expected***" and by inserting in lieu thereof the word "***anticipated***"; and

On page 6, line 12 by deleting the word "***parcel***" and by inserting in lieu thereof "***area***"; and

On page 6, line 13 by deleting the word "***parcel***" and by inserting in lieu thereof "***area***"; and

On page 6, line 17 by deleting the word "***parcel***" and by inserting in lieu thereof "***area***"; and

On page 6, line 18 by deleting the word "***parcel***" and by inserting in lieu thereof "***area***"; and

On page 6, line 23 by deleting the word "***parcel***" and by inserting in lieu thereof "***area***"; and

On page 7, line 4 after the words "***designation to the***" by adding the word "***applicable***"; and

On page 7, line 5 after the words "***jurisdiction within the***" by adding "***applicable***"; and

On page 7, line 23 after the words "***designation to the***" by adding the word "***applicable***"; and

On page 7, line 24 by deleting the words "***jurisdiction of***" and by inserting in lieu thereof the words "***coordinated service area of the comprehensive plan to***"; and

On page 7, line 27 after the word "***If***" by deleting the word "***a***" and by inserting in lieu thereof the words "***the applicable***"; and

On page 8, line 2 after the words "***disapproval, and the***" by inserting the word "***applicable***"; and

On page 8, line 13 after the words "***designation to the***" by inserting the word "***applicable***"; and

On page 8, line 14 by deleting the words "***jurisdiction of***" and by inserting in lieu thereof the words "***coordinated service area of the comprehensive plan to***"; and

On page 8, line 17 after the word "***If***" by deleting the word "***a***" and by inserting in lieu thereof the word "***the applicable***";

and

On page 9, beginning on line 23 and continuing through line 24 by deleting the words "*, limiting unnecessary growth*"; and

On page 9 beginning on line 26 and continuing to page 10, line 18 by deleting paragraphs *(c)* through *(g)* and by inserting in lieu thereof:

"*(c) Maximizes the efficient design, use, and maintenance of government services;*

(d) Preserves community identity through the preservation of historic and natural resources and open spaces;

(e) Encourages infill and revitalization in existing developed areas of the community; and

(f) Recognizes that some sites within the planning commission's jurisdiction exhibit features that need to be addressed prior to development such as:

1. Steep hillside conditions;

2. Presence of karst features;

3. Floodplains; and

4. Fragile geological formations; and"

On page 10, line 19 by deleting the word "*(h)*" and by inserting in lieu thereof "*(g)*"; and

On page 14 beginning on line 14 and continuing through line 18 by deleting the sentence "*The at-large appointee shall be a citizen who is not an elected or appointed official.*"; and

On page 15 beginning on line 9 and continuing on to line 27 by deleting paragraphs *(c)* through *(g)* and by inserting in lieu thereof:

"*(c) Maximize the efficient design, use, and maintenance of regional government services;*

(d) Preserve regional identity through the preservation of historic and natural resources and open spaces;

(e) Encourage infill and revitalization in existing developed areas of the region; and

(f) Recognize that some sites within the area development district's jurisdiction exhibit features that need to be addressed prior to development such as:

1. Steep hillside conditions;

2. Presence of karst features;

3. Floodplains; and

4. Fragile geological formations; and"

On page 16, line 1 by deleting the word "*(h)*" and by inserting in lieu thereof the word "*(g)*"; and

On page 17, line 24 and continuing on to page 18, line 16 by deleting subparagraphs *1.* through *7.* in their entirety and by inserting in lieu thereof the following:

"*1. Provide for the most efficient and appropriate use of land;*

2. Provide for the mixed uses of developments and land;

3. Maximize the efficient design, use, and maintenance of government services;

4. Preserve state identity through the preservation of historic and natural resources and open spaces;

5. Encourage infill and revitalization in existing developed areas of the Commonwealth;

6. Recognize that some sites within the state exhibit features that need to be addressed prior to development, such as:

a. Steep hillside conditions;

b. Presence of karst features;

c. Floodplains; and

d. Fragile geological conditions; and"; and

On page 18, line 17 by deleting the word "*8.*" and by inserting in lieu thereof the word "*7.*".

Floor Amendment No. 1 to **HB 711**, by Representative Coleman:

On page 1, after line 17, by inserting the following:

"*(3) The fund shall be funded during each of fiscal years 2000-01 and 2001-02 by any moneys that may be appropriated to the fund by the General Assembly or be received from any grants from the federal or state governments or from any other public or private sources, including but not limited to gifts, donations, or bequests.*";

On page 1, line 20, after "*(1)*", by inserting the following: "***Effective July 1, 2002,***";

On page 1, line 25, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2002-03 and 2003-04***";

On page 2, line 2, by deleting "***2002-03 and 2003-04***" and inserting the following in lieu thereof: "***2004-05 and 2005-06***";

On page 2, lines 3 and 4, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***";

On page 2, lines 8 and 9, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2002-03 and 2003-04***";

On page 2, line 11, by deleting "***2002-03 and 2003-04***" and inserting the following in lieu thereof: "***2004-05 and 2005-06***";

On page 2, lines 12 and 13, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***";

On page 2, lines 16 and 17, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2002-03 and 2003-04***";

On page 2, line 19, by deleting "***2002-03 and 2003-04***" and inserting the following in lieu thereof: "***2004-05 and 2005-06***";

On page 2, lines 20 and 21, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***";

On page 2, line 24, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2000-01, 2001-02, 2002-03, and 2003-04***";

On page 2, line 26, by deleting "***2002-03***" and inserting the following in lieu thereof: "***2004-05***";

On page 3, line 3, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***";

On page 6, line 19, after "*(7)*", by inserting the following: "***Effective July 1, 2002,***";

On page 6, lines 23 and 24, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2002-03 and 2003-04***";

On page 6, lines 25 and 26, by deleting "***2002-03 and 2003-04***" and inserting the following in lieu thereof: "***2004-05 and 2005-06***";

On page 6, line 27, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***";

On page 8, line 1, after "(2)", by inserting the following: "***Effective July 1, 2002,***";

On page 8, lines 5 and 6, by deleting "***2000-2001 and 2001-2002***" and inserting the following in lieu thereof: "***2002-2003 and 2003-2004***";

On page 8, lines 7 and 8, by deleting "***2002-2003 and 2003-2004***" and inserting the following in lieu thereof: "***2004-2005 and 2005-2006***";

On page 8, line 9, by deleting "***2004-2005***" and inserting the following in lieu thereof: "***2006-2007***";

On page 12, line 20, after "*(5)*", by inserting the following: "***Effective July 1, 2002,***";

On page 12, lines 24 and 25, by deleting "***2000-01 and 2001-02***" and inserting the following in lieu thereof: "***2002-03 and 2003-04***";

On page 12, lines 26 and 27, by deleting "***2002-03 and 2003-04***" and inserting the following in lieu thereof: "***2004-05 and 2005-06***"; and

On page 13, line 1, by deleting "***2004-05***" and inserting the following in lieu thereof: "***2006-07***".

Floor Amendment No. 4 to the Committee Substitute to **HB 366**, by Representative Wilkey:

On page 1, line 22, to delete the word "***it***" and to insert "***"limited access facility"***"; and

On page 2, line 10, to delete "***After***" and to delete "***consumed a quantity of alcohol sufficient to establish***"; and

On page 2, line 21, to delete "***After***" and to delete "***consumed a quantity of alcohol sufficient establish***"; and

On page 3, line 1, following "(2)" to insert "***With the exception of the results of the tests administered pursuant to subsection (7) of Section 8 of this Act,***"; and

On page 4, line 16, following "***form of***" to insert "***early***"; and

On page 4, lines 23 and 24, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 4, line 26, following "***form of***" to insert "***early***"; and

On page 5, lines 7 and 8, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 5, line 10, following "***form of***" to insert "***early***"; and

On page 5, lines 14 and 15, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 5, line 10, following "***form of***" to insert "***early***"; and

On page 6, line 6 following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 6, line 10, following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 6, line 19, following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 7, lines 13 and 14, to delete "***, provided that the refusal is established by video or audio recording or a written instrument signed by the person refusing to submit***"; and

On page 7, line 19, following "subsections" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 7, line 20, following "and" to insert "***(6)***" and to bracket and strike through "(5)"; and

On page 8, line 1, following "for a first offender" to insert "***or an offender who is a minor***"; and

On page 13, line 1, following "***cabinet shall***" to insert "***forthwith***"; and

On page 13, line 21, to place brackets around and strike through "189A.060 or"; and

On page 18, line 18, following "***specified by***" to insert "***Section 2 of this Act and***"; and

On page 19, lines 6 and 7, to delete "***or subsection (1) of Section 12 of this Act***"; and

On page 19, lines 16 and 17, to delete "***or subsection (1) of Section 12 of this Act***; and

On page 19, lines 25 and 26, to delete "***not longer than the period***" and to insert in lieu thereof "***within the time range specified that***"; and

On page 22, line 2, following "***resulted in***" to insert "***death or serious***"; and

On page 25, line 5, to delete "***paragraphs***" and to insert in lieu thereof "***subsection***" and to delete "***(a), (b), (c), or (d)***"; and

On page 25, line 7, following "***resulted in***" to insert "***death or serious***"; and

On page 25, line 14, following "prior conviction" to insert "***not meeting applicable case law regarding admissibility of a prior conviction***"; and

On page 27, line 26, to delete "***charged with***" and to insert in lieu thereof "***tried for***"; and

On page 28, line 4, following "***these statutes***" to insert "***for offenses arising out of the same course of conduct***"; and

On page 28, line 23, to delete "***At the final sentencing hearing, and***"; and

On page 29, line 4, following "***the clerk***" to insert "***or the Transportation Cabinet as appropriate,***"; and

On page 29, line 7, to delete "***utilize***" and to insert in lieu thereof "***operate***"; and

On page 29, line 11, to delete "***sold***" and to insert "***transferred***"; and

On page 32, line 5, to delete "***and***" and to insert "***or***"; and

On page 32, line 9, to delete "***pursuit, traffic stop, and***"; and

On page 32, line 11, following "entire recording" to insert "***of the field sobriety tests and the entire recording of such portions of the pursuit and traffic stop as were recorded***"; and

On page 39, between lines 11 and 12, by inserting the following:

"Section 26. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

- (a) Murder or manslaughter resulting from the operation of a motor vehicle;
- (b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;
- (c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
- (d) Any felony in the commission of which a motor vehicle is used;
- (e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
- (f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
- (g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
- (h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
- (i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS ~~[189A.060,]~~189A.070 ***or***~~[,]~~ and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.", and to renumber subsequent sections accordingly.

Floor Amendment No. 3 to the Committee Substitute to **HJR 141**, by Representative Riner:

On page 1, by deleting each of the five "WHEREAS" clauses in their entirety and inserting in their place the following:

"WHEREAS, young men who earn the Eagle Scout rank in Boy Scouts of America and the Mitchell Award in the Civil Air Patrol, and young women who earn the Gold Award in the Girl Scouts of America, are recognized for outstanding performance and achievement in their communities; and

WHEREAS, these young men and women have demonstrated high principles of character, commitment to excellence, leadership, and service to their communities; and

WHEREAS, the importance of scouting programs is evident in many communities, and especially for African American males who often face tremendous obstacles, by providing support and structure for building character and developing potential of each young person; and

WHEREAS, the scholarships awarded to Eagle Scouts under the University of Louisville's Trustees Scholarship Program recognizes outstanding scholar scouts and cadets and should be replicated across the Commonwealth; and

WHEREAS, The Commonwealth of Kentucky needs to retain its brightest and most talented students in its public institutions;";

On page 1, line 2, by deleting "at least one (1) permanent and continuing competitive Eagle Scout" and inserting in its place "a Scouting and Civil Air Patrol";

On page 1, line 4, by deleting "Eagle Scouts who achieve:" and inserting in its place, "young people who have been awarded the Gold Award by the Girl Scouts or the Mitchell Award by the Civil Air Patrol, or who have achieved the rank of Eagle Scout in the Boy Scouts.

Section 2. A university may award a scholarship to a Girl Scout, Boy Scout, or Civil Air Patrol Cadet based on the following criteria that may include:

(1) Kentucky residency;

(2) A high ACT score;

(3) A grade point average of at least 3.0 upon graduating from high school;

(4) Active membership in a Girl Scout troop, a Boy Scout troop, Explorer post or venture unit, or a Civil Air Patrol squadron during and until graduation from high school; and

(5) Financial need of the Girl Scout, Boy Scout or Civil Air Patrol Cadet.

Section 3. The university shall create other eligibility criteria of equal weight that will ensure the greatest number of African Americans awarded the Gold Award by the Girl Scouts or the Mitchell Award by the Civil Air Patrol, or who have achieved the rank of Eagle Scout in the Boy Scouts will have the greatest likelihood of being awarded a scholarship under this program. In determining the eligibility criteria, consideration shall be given to honors and awards received and to volunteer or leadership positions in school, civic, community, and religious organizations.";

On page 1, by deleting lines 5 through 12 in their entirety;

On page 2, by deleting line 1 in its entirety;

On page 2, line 2, after "Section" by deleting "3" and inserting in its place "4"; and

On page 2, line 6, after "Section" by deleting "4" and inserting in its place "5".

Floor Amendment No. 2 to the House Committee Substitute to **SB 149**, by Representative Jenkins:

On Page 2, line 13, after "***committee***", by inserting, "***shall give at least seventy-two (72) hours prior written notice to specific witnesses expected to give testimony under oath, and***" and

On Page 2, line 16, by deleting "***prima facie***", and inserting in lieu thereof, "***admissible in court in accordance with the rules of***"; and

On Page 2, line 16, after "***evidence***", by deleting "***of***", and inserting in lieu thereof, "***as***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 149**, by Representative Jenkins:

On Page 2, line 13, after "***committee***", by inserting, "***shall give at least seventy-two (72) hours prior written notice to specific witnesses expected to give testimony under oath, and***" and

On Page 2, line 16, by deleting "***prima facie***", and inserting in lieu thereof, "***admissible in court in accordance with the rules of***"; and

On Page 2, line 16, after "***evidence***", by deleting "***of***", and inserting in lieu thereof, "***as***".

Floor Amendment No. 1 to **HCR 139**, by Representative Jenkins:

On pages 2 and 3, by deleting all language in Section 2. and Section 3., beginning at line 7 on page 2 and ending at line 10 on page 3, and inserting the following in lieu thereof:

"Section 2. The membership of the Task Force on Violence in the Workplace shall include the following:

(1) Two members appointed by the President of the Senate;

(2) Two members appointed by the Speaker of the House of Representatives;

(3) Three members recommended to the Legislative Research Commission by the Governor, one of whom shall represent law enforcement, one of whom shall represent victim's rights, and one of whom shall represent the mental health professions;

(4) One member recommended to the Legislative Research Commission by the Chief Justice of the Supreme Court;

(5) Secretaries of the Labor, Justice, Workforce Development, Families and Children, and Health Services Cabinets, or their designees;

(6) Executive director of the Commission on Women, or her designee;

(7) Executive director of the Governor's Office of Child Abuse and Domestic Violence Services, or her designee;

(8) Public advocate, or his designee;

(9) Attorney General, or his designee;

(10) A representative of the Kentucky State American Federation of Labor-Congress of Industrial Organizations (AFL-CIO);

(11) A representative of the medical community; and

(12) Three members appointed by the Legislative Research Commission, one of whom shall represent large employers who employ two hundred fifty or more employees, one of whom shall represent small employers who employ less than two hundred fifty employees, and one of whom shall represent employees who do not belong to a labor or employee organization.

Section 3. The Legislative Research Commission shall appoint a chair and co-chair from its legislative membership. Twelve members of the task force shall constitute a quorum, and twelve votes shall be needed to validate an action. Nonlegislative members of the task force shall serve without compensation, but shall be reimbursed for their actual and necessary expenses while engaged in the performance of their duties as members.".

Floor Amendment No. 1 to **HB 940**, by Representative Thomas:

On page 4, line 20, after the first "*its*", by deleting "***producer workbook***" and inserting "***state water quality plan***".

Floor Amendment No. 1 to the Committee Substitute to **HB 920**, by Representative Wilkey:

On page 40, by deleting lines 3 and 4, and inserting in lieu thereof the following:

"(d) Moneys collected and deposited in the ***court cost distribution fund***~~[State Treasury]~~ as provided by ***Section 32 of this Act***~~[KRS 24A.175(6)]~~; and";

On page 53, by deleting lines 2 and 3, and inserting in lieu thereof the following:

"(7) The sheriff shall receive ~~[five dollars ($5) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175, and 24A.180]~~***ten dollars ($10) from***"; and

On pages 53 and 54, by deleting lines 9 through 27 on page 53 and lines 1 through 3 on page 54, and by renumbering subsequent sections accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 920**, by Representative Wilkey:

On page 1, line 8, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 1, line 22, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "*Act*";

On page 2, line 26, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 3, line 6, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "*Act*";

On page 7, line 2, by deleting "***damages***" and inserting "***costs***" in lieu thereof;

On page 12, lines 17 through 22, by removing the brackets and strikethroughs; and

On page 12, at the beginning of line 17, by inserting "***(6)***", and by placing brackets and strikethroughs around "(8)";

On page 39, line 18, by inserting brackets around and striking through "subsection", and by deleting "***(2)(a) of***";

On pages 50 to 51, by deleting line 3 on page 50 through line 12 on page 51, and inserting the following in lieu thereof:

"SECTION 32. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks shall be paid, under subsection (5) of Section 1 and subsection (4) of Section 2 of this Act.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund. Money collected from each court cost by a circuit clerk under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act shall be disbursed as follows:

(a) The first fifty-six dollars ($56) from each court cost shall be paid into the general fund;

(b) The next three dollars ($3) from each court cost shall be paid to the crime victims' compensation fund created in Section 11 of this Act;

(c) The next ten dollars ($10) from each court cost shall be paid to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(d) The next six dollars ($6) from each court cost shall be paid to the spinal cord and head injury research fund created in KRS 211.504;

(e) The next five dollars ($5) from each court cost shall be paid to the traumatic brain injury trust fund as created in Section 31 of this Act;

(f) The next five dollars ($5) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, to be used for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners. The cabinet shall provide reports to the Administrative Office of the Courts stating the amounts paid to each county;

(g) The next ten dollars ($10) from each court cost shall be paid to the sheriff in the county in which each court cost was paid;

(h) The next two dollars ($2) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, for the purpose of paying expenses for the local jails, courthouses, bonds related to them and administration thereof; and

(i) The remaining three dollars ($3) from each court cost shall be paid to the trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries as provided for in KRS 30A.200.

(3) Partial payments of each court cost shall be disbursed to each fund in the order set forth in subsection (2) of this section.";

On page 51, line 21, by deleting "***subsection (2)(a) of***"; and

On page 56, between lines 6 and 7, by inserting the following, and renumbering subsequent sections accordingly:

"Section 37. KRS 30A.200 is amended to read as follows:

All moneys which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt;

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court;

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the State Treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth; and

(4) In a criminal proceeding or in a proceeding under KRS Chapter 186 to KRS Chapter 189A, assessed a fee of five percent (5%) of the total value of the deposit ***minus the amount of court costs charged under subsection (1) of Section (1) and subsection (1) of Section 2 of this Act***, which shall be paid by the depositor at the time of making the deposit and which shall be in addition to the amount deposited. The fee shall be deposited by the clerk into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries to compensate for the additional duties necessitated by this section.

Section 38. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

    (a) Two (2) members representing the University of Kentucky College of Medicine;
    (b) Two (2) members representing the University of Louisville School of Medicine;
    (c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;
    (d) One (1) member representing the Kentucky Medical Association; and
    (e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. [~~A~~

~~member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.]~~

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health Services for administrative purposes.".

Calendar

HB 576, 577, HJR 83, HJR 84, and **HJR 85** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 389: Representative Stewart

HB 533: Representative Stewart

HB 572: Representative Riggs

HB 843: Representative Colter

HB 991: Representative Stewart

Announcements

The following meetings were announced:

Local Government, March 13, 2000, upon adjournment

Appropriations and Revenue, March 13, 2000, upon adjournment

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 14, 2000.

The motion that the House adjourn until 2:00 p.m., March 14, 2000, was adopted by voice vote.

MARCH 14, 2000

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 13, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Crall moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Crall moved the adoption of the following **Legislative Citation No. 107**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to the members of The Sutton Singers upon the occasion of their visit to the Chambers of the House of Representatives on this day of the 2000 Regular Session of the Kentucky General Assembly. These talented third and fourth grade students from Sutton Elementary School, of the Owensboro Public School District, under the highly skilled direction of Julie White, are further offered sincere gratitude for their gracious consent to entertain the members of this distinguished body by singing the tunes, Oh Kentucky and Johnson Boys. This marks the twelfth year of existence for the Sutton Singers, a group whose participants are selected from competitive auditions, who practice twice weekly after school, and who perform both statewide and regionally. Highlights of their accomplishments include singing with the Chattanooga Boys Choir and the Owensboro Symphony, performing at Opryland, Holiday World, and the Kentucky Center for the Arts, as well as experiencing their Kentucky Educational Television debut by performing at River Park Center for the In Performance at the Governor's Mansion Series. The members of this august body are delighted to join Representative Brian Crall in applauding the Sutton Singers and honoring all those who have contributed to this most remarkable and enriching undertaking. Done in Frankfort, this fourteenth day of March, in the year two thousand.

Legislative Citation No. 107 was adopted without objection.

Senate Message

Announcing passage of **SB 4, SB 195, SB 267, SB 292, SB 293, SB 308, SB 324, SB 330, SB 341, SB 382, SB 398, SB 409, SJR 104, SJR 110, SJR 114,** and **HB 412**. (Time: 2:10 p.m.)

Message in regard to **HB 76**: The Senate has passed **HB 76** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 336**

Banking and Insurance: **SB 331**

Economic Development: **SCR 111, SCR 113**

Education: **SB 275**

Health and Welfare: **SB 339, SB 351, SB 383**

Judiciary: **SB 226, SB 260, SB 261, SB 309**

State Government: **SB 315**

Tourism, Development, and Energy: **SJR 107**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **SB 316**

Report of Committees

The Committee on Tourism, Development, and Energy reported **HB 821, HB 897,** with Committee Substitute attached thereto, and **SB 172** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 821, AN ACT relating to tourism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and KRS 154.29-010 to 154.29-060, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 154.29-050, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to KRS 154.29-050 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Economic Development Finance Authority as set forth in KRS 154.20-010;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 154.29-030. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls,

virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 154.29-010 to 154.29-060;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 154.29-010 to 154.29-060;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, or an entertainment destination center. A tourism attraction shall not include any of the following:

  (a) Lodging facilities, unless*:*

    1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency; ***or***

    2. The approved cost for the lodging facility exceeds twenty million dollars ($20,000,000) and the lodging facility is a full-service facility attached or adjacent to a publicly funded convention center containing a minimum of fifty thousand (50,000) square feet, and the convention center governing body and the secretary of the Tourism Development Cabinet provide written certification that the lodging facility is essential to achieving full utilization and maximum economic benefits from the center's operations;

  (b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

  (c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(13) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

HB 897, AN ACT relating to utilities and affiliates of utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with:

  (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

  (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

  (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

  (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative", or "G&T", means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission;~~[and]~~

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand***;***

(18) "Affiliate" means a company that is related to a utility due to common ownership or control;

(19) "Control" means the ability to direct or cause the direction of the management and policies of an entity through ownership, by contract, or by other means, either direct or indirect;

(20) "Cost allocation manual" means an indexed compilation and documentation of a company's cost allocation policies and related procedures;

(21) "Nonutility service" means any nonrate, nonregulated activity by a utility or an affiliate, including the sale of a product or provision of a service that is not regulated by the commission;

(22) "Nonregulated" means that which is not subject to regulation by the commission; and

(23) "Regulated service" means a service provided by a utility that is regulated by the commission.

SECTION 2. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) Revenues derived from regulated services provided by a utility shall not be used to subsidize or otherwise give advantage to any person providing a nonutility service. The commission shall require all utilities providing a nonutility service, either directly or through an affiliate, to keep separate accounts and allocate costs in accordance with procedures established by the commission. The commission may require other acts that will assist the commission in enforcing this section.

(2) The provisions of this section shall not apply to telecommunications utilities subject to KRS 278.514.

SECTION 3. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

The provisions of this section shall govern a public utility company's activities related to the sharing of information, databases,

and resources between its employees or an affiliate involved in the marketing or the provision of nonutility services and its employees or an affiliate involved in the provision of regulated services.

(1) A utility and an affiliate shall be separate corporate entities and maintain separate books and records. A utility and an affiliate shall have separate officers, directors, and employees. Any utility that engages in nonutility services directly rather than through an affiliate shall separately account for all investments, revenues, and expenses in accordance with its filed cost allocation manual.

(2) A utility shall not provide advertising space in its billing envelope to an affiliate or for its nonutility services unless it offers the same to competing service providers on the same terms it provides to an affiliate. This subsection applies to competitive services only.

(3) A utility shall not attempt to persuade customers to do business with an affiliate by offering rebates or discounts.

(4) A utility shall not solicit business on behalf of an affiliate or for its nonutility services or speak or give the appearance of speaking on behalf of an affiliate.

(5) All electric company employees engaged in the merchant function shall abide by all standards promulgated by applicable Federal Energy Regulatory Commission orders and regulations.

(6) No utility employee shall share any customer information with an affiliate unless that information is readily publicly available or is simultaneously made publicly available.

(7) All dealings between a utility and an affiliate shall be at "arm's length". "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction.

(8) A utility may not share marketing and business plans or market research with an affiliate.

(9) Employees transferring from the utility to an affiliate shall not take with them any competitively sensitive materials.

(10) If a utility offers a nonutility service, marketing employees shall not have access to customer information provided to order takers.

(11) A utility shall not provide any type of preferential treatment to an affiliate to the detriment of a competitor.

(12) If a utility receives a request for a recommendation from a customer seeking a nonutility service that is offered by an affiliate of the utility, or by the utility itself, the utility shall notify the customer that competing suppliers of that service exist, if it mentions its own affiliate or that it provides the service.

(13) The utility name or logo shall not be used by an affiliate.

(14) A utility shall not provide credit support for an affiliate. A utility shall not enter into any arrangement for financing nonutility services, either directly or through an affiliate, that would permit a creditor, upon default, to have recourse to the assets of the utility.

(15) A utility shall inform the commission of all new nonutility services begun by itself or an affiliate within a time period to be set by the commission.

(16) Start-up costs associated with the formation of an affiliate shall not be borne by ratepayers.

(17) The commission may require that the utility and an affiliate file periodic reports of information related to affiliate transactions when necessary to monitor compliance with these guidelines.

(18) A utility shall not engage in any joint promotional or marketing activities with its affiliate.

(19) The provisions of this section shall not apply to telecommunications utilities. However, nothing in this section shall limit any authority which the Public Service Commission may have to promulgate administrative regulations governing transactions between telecommunication utilities and their affiliates.

The Committee Substitute No. 1 to **HB 897** is as follows:

HB 897, AN ACT relating to utilities and affiliates of utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

(c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative", or "G&T", means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission;~~[and]~~

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand***;***

(18) "Affiliate" means a person that controls or that is controlled by, or is under common control with, a utility;

(19) "Control" means the power to direct the management or policies of a person through ownership, by contract, or otherwise;

(20) "CAM" means a cost allocation manual which is an indexed compilation and documentation of a company's cost allocation policies and related procedures;

(21) "Nonregulated activity" means the provision of competitive retail gas or electric services or other products or services over which the commission exerts no regulatory authority;

(22) "Nonregulated" means that which is not subject to regulation by the commission;

(23) "Regulated activity" means a service provided by a utility, the rates and charges of which are regulated by the commission;

(24) "USoA" means uniform system of accounts which is a system of accounts for public utilities established by the FERC

and adopted by the commission;

(25) "Arm's length" means the standard of conduct under which unrelated parties, each party acting in its own best interest, would negotiate and carry out a particular transaction;

(26) "Subsidize" means the recovery of costs or the transfer of value from one class of customer, activity, or business unit that is attributable to another;

(27) "Solicit" means to engage in or offer for sale a good or service, either directly or indirectly and irrespective of place or audience;

(28) "USDA" means the United States Department of Agriculture;

(29) "FERC" means the Federal Energy Regulatory Commission; and

(30) "SEC" means the Securities and Exchange Commission.

SECTION 2. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

A utility shall not subsidize a nonregulated activity provided by an affiliate or by the utility itself. The commission shall require all utilities providing nonregulated activities, either directly or through an affiliate, to keep separate accounts and allocate costs in accordance with procedures established by the commission. The commission may promulgate administrative regulations that will assist the commission in enforcing this section.

SECTION 3. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) A utility that engages in a nonregulated activity shall identify all costs of the nonregulated activity and report the costs in accordance with the guidelines in the USoA and the cost allocation methods described in subsection (2) of this section.

(2) In allocating costs between regulated and nonregulated activities, a utility shall utilize one of the following cost allocation methods:

(a) The fully distributed cost method; or

(b) A cost allocation method recognized or mandated by the rules of the SEC promulgated pursuant to U.S.C. sec. 79, et seq. or promulgated by the FERC or by the USDA.

(3) A utility's compliance with federal cost allocation methods shall constitute compliance with the provisions of KRS 278.010 to 278.450.

(4) Notwithstanding subsections (1) to (3) of this section, a utility may report an incidental nonregulated activity as a regulated activity if:

(a) The revenue from the aggregate total of the utility's nonregulated incidental activities does not exceed the lesser of two percent (2%) of the utility's total revenue or one million dollars ($1,000,000) annually; and

(b) The nonregulated activity is reasonably related to the utility's regulated activity.

(5) Nothing contained in this section shall be construed as requiring a utility to violate any cost allocation methods required to be employed under any service agreement validly existing as of the effective date of this Act for the term of the existing agreement, except where the commission makes the determination that a service agreement was executed for the purpose of avoiding provisions of KRS 278.010 to 278.450.

SECTION 4. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) Any utility that engages in a nonregulated activity whose revenue exceeds the amount provided for incidental nonregulated activities under subsection (4)(a) of Section 3 of this Act, shall develop and maintain a CAM as described in subsections (2) to (5) of this section.

(2) A CAM shall contain the following information for a utility's jurisdictional operations in the Commonwealth:

(a) A list of regulated and nonregulated divisions within the utility;

(b) A list of all regulated and nonregulated affiliates of the utility to which the utility provides services or products and where the affiliates provide non-regulated activities as defined in subsection (21) of Section 1 of this Act;

(c) A list of services and products provided by the utility, an identification of each as regulated or nonregulated, and the cost allocation method generally applicable to each category;

(d) A list of incidental, nonregulated activities that are subject to the provisions of subsection (4) of Section 3 of this Act;

(e) A description of the nature of transactions between the utility and the affiliate; and

(f) For each USoA account and subaccount, a report that identifies whether the account contains costs attributable to regulated operations and nonregulated operations. The report shall also identify whether the costs are joint costs that cannot be directly identified. A description of the methodology used to apportion each of these cost shall be included and the allocation methodology shall be consistent with the provisions of Section 3 of this Act.

(3) Within two hundred seventy (270) days of the effective date of this Act, the utility shall file:

(a) A statement with the commission that certifies the CAM has been developed and will be adopted by the management, effective with the beginning of the next calendar year. The statement shall be signed by an officer of the utility; and

(b) One copy of the CAM.

(4) Within sixty (60) days of any material change in matters required to be listed in the CAM, the utility shall amend the CAM to reflect the change.

(5) The CAM shall be available for public inspection at the utility and at the Commission.

(6) The CAM shall be filed as part of the initial filing requirement in a proceeding involving an application for an adjustment in rates pursuant to KRS 278.190.

SECTION 5. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) The terms for transactions between a utility and its affiliates shall be in accordance with the following:

(a) Services and products provided to an affiliate by the utility pursuant to a tariff shall be at the tariffed rate, with nontariffed items priced at the utility's fully distributed cost but in no event less than market, or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology.

(b) Services and products provided to the utility by an affiliate shall be priced at the affiliate's fully distributed cost but in no event greater than market or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology.

(2) A utility may file an application with the commission requesting a deviation from the requirements of this section for a particular transaction or class of transactions. The utility shall have the burden of demonstrating that the requested pricing is reasonable. The commission may grant the deviation if it determines the deviation is in the public interest.

(3) Nothing in this section shall be construed to interfere with the commission's requirement to ensure fair, just, and reasonable rates for utility services.

SECTION 6. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

In any formal commission proceeding in which cost allocation is at issue, a utility shall provide sufficient information to document that its cost allocation procedures and affiliate transaction pricing are consistent with the provisions of this chapter.

SECTION 7. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

(1) If the commission finds that a utility has not complied with any provision of this chapter for any transaction between a utility and its affiliate, or if a utility has failed to provide sufficient evidence of its compliance, then the commission may:

(a) Access the books and records of a utility's nonregulated affiliate; and

(b) Order that the costs attached to any transactions be disallowed from rates.

(2) If, after inspecting an affiliate's books and records, the commission finds that a utility has not complied with any provision of KRS 278.010 to 278.450, the commission may perform a financial audit of the utility's affiliate to the extent necessary to ensure compliance with KRS 278.010 to 278.450.

SECTION 8. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:

The provisions of this section shall govern a public utility company's activities related to the sharing of information, databases, and resources between its employees or an affiliate involved in the marketing or the provision of nonregulated activities and its employees or an affiliate involved in the provision of regulated activities.

(1) A utility and its affiliate shall be separate corporate entities and maintain separate books and records. If a utility and nonregulated affiliate have common officers, directors, or employees, the fees, compensation, and expenses of the individuals involved shall be subject to the cost allocation requirements set forth in Section 3 and Section 5 of this Act. Any utility that provides nonregulated activities shall separately account for all investments, revenues, and expenses in accordance with its filed cost allocation manual.

(2) A utility shall not provide advertising space in its billing envelope to its affiliates or for its nonregulated activities unless it offers the same to competing service providers on the same terms it provides to its affiliates. This subsection applies to nonregulated activities only.

(3) A utility shall not attempt to persuade customers to do business with its affiliates by offering rebates or discounts on tariffed services.

(4) All utility company employees engaged in the merchant function shall abide by all standards promulgated by applicable FERC orders and regulations.

(5) No utility employee shall share any confidential customer information with the utility's affiliates unless the customer has consented in writing, or the information is publicly available or is simultaneously made publicly available.

(6) All dealings between a utility and a nonregulated affiliate shall be at arm's length.

(7) Employees transferring from the utility to an affiliate shall not disclose to the affiliate confidential information or take with them any competitively sensitive materials.

(8) Neither a utility, nor its employees or agents shall solicit business on behalf of an affiliate or for its nonutility services.

(9) A utility that carries out any research and development or joint marketing and promotion with its affiliate for its nonregulated activities shall be subject to the cost allocation requirements set forth in Section 3 of this Act.

(10) Except as provided in subsection (5) of this section, if a utility is engaged in a nonregulated activity, marketing employees for the nonregulated activity shall not have access to the customer information provided to the utility when the customer places an order for regulated service.

(11) A utility shall not provide any type of undue preferential treatment to a nonregulated affiliate to the detriment of a competitor.

(12) A utility shall notify the customer that competing suppliers of a nonregulated service exist if:

(a) The utility receives a request for a recommendation from a customer seeking a specific service which is offered by the utility's affiliate or by the utility itself; and

(b) The utility mentions itself or its affiliate when making the recommendation to the customer.

(13) The utility's name, trademark, brand, or logo shall not be used by a nonregulated affiliate in any type of visual or audio media without a disclaimer. The commission shall develop specifications for the disclaimer. The disclaimer shall be approved by the commission prior to use in any advertisement by the utility's affiliate.

(14) A utility shall not enter into any arrangements for financing nonregulated activities through an affiliate that would permit a creditor upon default to have recourse to the assets of the utility.

(15) A utility shall inform the commission of all new nonregulated activities begun by itself or by the utility's affiliate within a time to be set by the commission.

(16) Start-up costs associated with the formation of a nonregulated affiliate shall not be included in the utility's rate base.

(17) The commission may require the utility to file annual reports of information related to affiliate transactions when necessary to monitor compliance with these guidelines.

SECTION 9. A NEW SECTION OF KRS 278.010 to 278.450 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 2 to 10 of this Act shall not apply to telecommunications utilities, telecommunications services, nonprofit water or sewer utilities, or water districts. Utilities organized under KRS Chapter 279 shall be exempt from Section 8 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions in Section 2 of this Act to the contrary, a utility may apply to the commission for a waiver or deviation from any or all provisions of Sections 2 to 8 of this Act.

(2) The utility's application to the commission shall:

(a) Demonstrate the basis of the utility's need to be granted a waiver or deviation; and

(b) Contain, if appropriate, documentation regarding the costs and benefits of compliance with the provisions of Sections 2 to 8 of this Act.

(3) The commission shall grant a waiver or deviation if the commission finds that compliance with the provisions of Sections 2 to 8 of this Act is impracticable or unreasonable. The findings of the commission shall be a final appealable order.

SB 172, AN ACT relating to advertising devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than 300 feet from the nearest edge of the right-of-way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings***;***[.]

(10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00)***;***

(11) "Advertising device viewing zone" means an area seven hundred fifty (750) feet in the direction the sign is facing and two hundred fifty (250) feet past the sign measured on the centerline of the travel lane having as one terminus the point of the centerline immediately opposite the advertising device;

(12) "Screening" means the obstruction of the view of an advertising device message as viewed from the centerline of the highway;

(13) "Routine maintenance" as it relates to a nonconforming advertising device means:

(a) The maintenance of an advertising device that is limited to replacement of nuts and bolts, nailing, riveting, or welding, cleaning and painting, or manipulating to level or plumb the advertising device;

(b) The routine change of message; or

(c) The repair of existing stringers, panels, facings, or poles or the replacement of existing stringers, panels, or facings. The display shall remain substantially as it was on the date the structure was classified by the Transportation Cabinet as nonconforming. Only original stringers, panels, and facings shall be used for repair. The structure shall not be repaired if it is destroyed. Notwithstanding whether it is permissible to repair the supporting members of an advertising device, "routine maintenance" shall not mean adding guys or struts for the stabilization of the device or substantially changing the device;

(14) "Destroyed" means that the advertising device has sustained damage by any means in excess of fifty percent (50%) of the entire advertising device, including supports, poles, guys, struts, panels, facing, and bracing. To be structurally and visually acceptable, the damage shall require more than fifty percent (50%) of the advertising device to be repaired or replaced through one (1) or more of the following remedies:

(a) Adding guys or struts;

(b) Adding new supports or poles by splicing or attaching to existing supports;

(c) Adding new or replacement peripheral or integral structural bracing or framing; or

(d) Adding new or replacement panels or facings;

(15) "Routine change of message" as it relates to a nonconforming advertising device means the message change on an advertising device from one (1) advertised product or activity to another, including the lamination, fixing, or preparation of existing or new panels or facings, at a plant or factory for the changing of messages as the normal operating procedure of a company;

(16) "Supplemental permit" means a special permit issued one (1) time per advertising device for the purposes of cutting, removing, or pruning vegetation that has grown wild and unmanaged during the prohibition on vegetation control between 1993 and 2000. The supplemental permit shall be submitted to the Transportation Cabinet no later than December 31, 2000;

(17) "Scrub growth" means unwanted undergrowth that has been growing wild and unmanaged; and

(18) "Accepted horticulture practice" means pruning that is supervised by an International Society of Arborculture certified arborist following the American National Standards Institute A300-Tree, Shrub and other Woody Plant Maintenance Standard Practices.

Section 2. KRS 177.850 is amended to read as follows:

The general purposes of KRS 177.830 to 177.890 and its specific objectives and standards are:

(1) To provide for maximum visibility along ***the National Highway System, including but not limited to*** interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and connecting roads or highways;

(2) ***To provide standards for the opening of views to legally erected forms of outdoor advertising that have been obstructed or had their effectiveness reduced by vegetation growing upon interstate highways, limited access highways, federal-aid primary highways, turnpikes, and connecting roads;***

(3) To prevent unreasonable distraction of operators of motor vehicles;

(4)[~~(3)~~]To prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations;

(5)[~~(4)~~]To preserve and enhance the natural scenic beauty or the aesthetic features of the aforementioned interstate highways, limited-access highways, federal-aid primary highways, turnpikes, and adjacent areas;

(6)[~~(5)~~]To promote maximum safety, comfort and well-being of the users of said highways.

Section 3. KRS 177.860 is amended to read as follows:

The commissioner of the Department of Highways shall prescribe, by ***administrative regulation promulgated under KRS Chapter 13A,***[~~regulations~~] reasonable standards for the advertising devices hereinafter enumerated ***that are***[~~,~~] designed to protect the safety of, and to guide, the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850.[~~, and~~] The erection and ***routine*** maintenance ***and routine change of message*** of any of the following advertising devices, if they comply with the regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:
    (a) The name and address of the owner, lessee, or occupant of the property; or
    (b) The name or type of business or profession conducted on the property; or
    (c) Information required or authorized by law to be posted or displayed on the advertising device;

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of the advertising devices is compatible with the safety and convenience of the traveling public.

Section 4. KRS 177.863 is amended to read as follows:

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

(1) Prohibited advertising devices:
    (a) Advertising devices that are not clean and in good repair.
    (b) Advertising devices that are not securely affixed to a substantial structure.
    (c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.

(e) Advertising devices on trees, or painted upon natural features.

(f) Advertising devices exceeding ***one thousand two hundred fifty (1,250)*** square feet on each face including border and trim, but excluding supports.

(g) Advertising devices advertising an activity that is illegal under state or federal law.

(h) Obsolete advertising devices.

(2) Spacing of advertising devices:

(a) ***An***[~~No~~] advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall ***not*** be erected within ***three hundred (300)*** feet of any other[~~ such~~] advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway***, except***[~~. Provided, however,~~] that in an incorporated municipality ***the***[~~such~~] required distance shall be reduced to ***one hundred (100)*** feet.

(b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.

(c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.

(d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.

(3) Size of advertising devices:

(a) The maximum area for any advertising device shall be ***one thousand two hundred fifty (1,250)*** square feet, including border and trim but excluding supports.

(b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.

(c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices:

Advertising devices may be illuminated, subject to the following restrictions:

(a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Advertising devices ***are prohibited that***[~~which~~] are not effectively shielded [~~as ~~]to prevent beams or rays of light from being directed at any portion of the traveled way of the highway ***and***[~~which~~] are of ***an***[~~such~~] intensity or brilliance ***that causes***[~~as to cause~~] glare***, impairs***[~~ or to impair~~] the vision of the driver of any motor vehicle, or[~~ which~~] otherwise ***interferes***[~~interfere~~] with any driver's operation of a motor vehicle[~~ are prohibited~~].

(c) ***An***[~~No~~] advertising device shall ***not*** be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

(5) The owner of a legally erected advertising device may apply to the Transportation Cabinet for approval of a vegetation control permit issued under the provisions of subsection (6) of this section for the purposes of trimming and pruning vegetation that is either interfering with the effectiveness of a lawfully erected advertising device or is obscuring a lawfully erected advertising device. A permit shall not be issued to clear-cut an area. Clear-cutting of vegetation shall be prohibited.

(6) The secretary of the Transportation Cabinet shall, within thirty (30) days of the effective date of this Act, establish a permit procedure for the selective control of vegetation that interferes with the effectiveness of a lawfully erected advertising device or is obscuring a lawfully erected advertising device. An advertising device shall be considered to be obscured or its effectiveness reduced when the advertising message is obstructed, in whole or in part, within the viewing zone of the advertising device for a cumulated distance of five hundred (500) feet in the direction the sign is facing. Under a vegetation control permit:

(a) The standards for approval of a vegetation control permit may include:

1. Replacement of landscaping vegetation;

2. Accepted horticultural practices;

3. Prohibition of topping, removing, or trimming of vegetation more than four (4) inches in diameter, unless the vegetation is certified by an arborist as scrub growth;

4. Prohibition of topping, removing, or trimming vegetation that was planted on state right-of-way to beautify Kentucky's scenery or for other landscaping purposes;

5. Prohibition of removal of any vegetation that screened the outdoor advertising device when a permit was originally issued for the device; and

6. Prohibition of vegetation control in the median of the highway.

(b) The application for a vegetation control plan shall include the following:

1. Identification of the advertising device;

2. Identification of the owner of the advertising device;

3. A photograph and a map or sketch showing the location of the advertising device, the viewing area of the device, and the portion of the device that is obstructed or will be obstructed within the next two (2) years;

4. A photograph and a map or sketch identifying all areas of requested vegetation control and a statement documenting if the vegetation is natural growth or landscaping material; and

5. The horticulture practice and vegetation control plan that the applicant recommends be used in front of the advertising device.

(c) The selective vegetation control plan submitted by an applicant shall be reviewed by a representative of the Transportation Cabinet and shall include an on-site inspection with the applicant's landscape personnel. The results of the inspection shall be included in the permit application.

(d) The Transportation Cabinet shall approve or deny an application for a permit within sixty (60) days of receipt of the application.

(e) The permit shall require a performance bond in an amount determined by the Transportation Cabinet to run concurrently with the permit.

(f) The Transportation Cabinet shall establish a permit fee by administrative regulation promulgated under KRS Chapter 13A to offset the cost of issuing a permit under this section.

(g) The Transportation Cabinet shall let a contract to perform duties associated with the approved vegetation control plan and permit. All costs associated with the contract shall be paid by the permit holder.

(h) A permit shall require a closure letter from the applicant stating the work has been completed in accordance with the terms of the permit.

(7) The owner of a legally erected advertising device that was erected prior to 1993 may apply to the Transportation Cabinet for a supplemental permit. The Transportation Cabinet shall by administrative regulation promulgated under KRS Chapter 13A establish procedures for the issuance of a supplemental permit including, but not limited to:

(a) All standards established in subsection (6)(a) of this section, except that the Transportation Cabinet may allow the trimming and pruning of vegetation greater than four (4) inches in diameter that has grown wild and unmanaged during the prohibition on vegetation control between 1993 and 2000;

(b) Standards ensuring the application process for a supplemental permit shall be consistent with subsection (6)(b) of this section; and

(c) A verification form to be completed by a certified arborist that the requested trim shall be in accordance with accepted horticulture practices and shall trim only the vegetation that has grown unmanaged during the seven (7) year prohibition on vegetation control.

(8) Nonconforming advertising devices may continue to exist after the effective date of this Act, except as provided in this subsection. An off-premise nonconforming, but otherwise legal, advertising device may continue to exist until just compensation has been paid to the owner of the device subject to the following conditions:

(a) The device is not destroyed, abandoned, or discontinued;

(b) The device is subjected to only routine maintenance. Performance of other than routine maintenance shall cause the device to lose its legal status and cause the device to be reclassified as illegal;

(c) The device is in conformance with local zoning, sign, or building restrictions at the time the device was erected; and

(d) The device is in compliance with the provisions of this section.

(9) The owner of a nonconforming, but otherwise legal, advertising device destroyed by vandalism or other criminal or tortious act may apply to the Department of Highways to reerect the advertising device in kind so that it is substantially the same as it was on the date the structure became nonconforming.

Section 5. KRS 177.870 is amended to read as follows:

(1) Any advertising device erected, maintained, replaced, relocated, repaired*,* or restored in violation of KRS 177.830 to 177.890 is hereby declared to be, and is, a public nuisance*. The Transportation Cabinet shall give written notice to remove the advertising device to the owner of the land upon which the advertising device is located and to the owner of the advertising device if the owner is known to the Transportation Cabinet. If the advertising device is not removed*

within thirty (30) days after the Transportation Cabinet has given notice, the[~~ and such~~] device may without notice be abated and removed by any officer or employee of the state Department of Highways[~~ or upon request of the commissioner by any peace officer~~].

(2) The Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to provide for the revocation of a permit and removal of an advertising device for which a permit has been issued or designated as nonconforming and has been found to be in violation of KRS 177.830 to 177.890. An appeal under this section shall be pursued under the provisions of KRS Chapter 13B. The revocation and removal policy shall provide for the Transportation Cabinet to give the owner of the advertising device notice and a hearing, if requested, prior to any order to remove the advertising device.

(3) Any person who violates the provisions of KRS 177.830 to 177.890 shall be fined one hundred dollars ($100) per day for each day that the violation is present. However, if the offending sign is fully removed within the first thirty (30) days after the date of initial notice from the cabinet, any and all fines accumulated by the owner of the offending sign within the thirty (30) day period shall be voided. If the sign is not removed within thirty (30) days after the date of the initial notice, then the owner of the offending sign shall be subject to the penalties in this subsection until the sign is fully removed by the owner.

The Committee on Local Government reported **HB 810, HB 893,** with Committee Amendment attached thereto, **HB 999,** with Committee Substitute and Committee Amendment attached thereto, and **HB 1024** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 810, AN ACT relating to fireworks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Any county, urban-county, charter county, or city of the first through the sixth class may by ordinance waive in whole or in part the prohibitions in KRS 227.708 and KRS 227.715(5) relating to the retail sale of fireworks, if the ordinance does not allow any sale, use, or possession prohibited by federal law. The waiver may be limited in scope so as to continue to prohibit the sale of certain fireworks whose retail sale is prohibited under KRS 227.708 and 227.715(5), while permitting the sale of other fireworks whose sale would be illegal but for the waiver. The ordinance may specify that the waiver shall apply only if certain conditions as set out in the ordinance are met. The geographic area of the waiver may be for all or part of the area encompassed by the government enacting the waiver. However, a county government may not extend its waiver into any area encompassed by a city. The ordinance may not grant any special exemption for the sale or possession of fireworks from duly enacted zoning laws.

HB 893, AN ACT relating to county judges/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.710 is amended to read as follows:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and[~~ such~~] additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his *or her* charge. His *or her* responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him *or her* or by officers who are under his *or her* direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review *the*[~~such~~] code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office, department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make[~~ such~~] other reports

from time to time as required by the fiscal court or as he ***or she*** deems necessary;

(7) Exercise with the approval of the fiscal court the authority to appoint, supervise, suspend, and remove ***all*** county personnel ***except for those employees specified in KRS 67.711***[~~(unless otherwise provided by state law)~~]; and

(8) With the approval of the fiscal court, make appointments to or remove members from[~~ such~~] boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create. The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter. In counties containing a city of the first class, the county judge/executive shall appoint to those seats which are not subject to prior qualification on a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, ***the county judge/executive***[~~he~~] shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, he ***or she*** shall equalize appointments to the extent possible. The county judge/executive shall not be required, but shall use his ***or her*** best efforts, to balance appointments on a board or commission if the appointments are to be made from nominees submitted by other groups or individuals or if nominees must have a professional or technical background, expertise or membership. ***The county judge/executive***[~~He~~] shall attempt to balance appointments among all[~~ such~~] boards and commissions in order to equalize representation of all districts over the entire range of[~~ such~~] boards and commissions.

Section 2. KRS 67.711 is amended to read as follows:

(1) [~~Notwithstanding the provisions of KRS 67.710(7), ~~]The county judge/executive of any county may appoint a deputy county judge/executive, ***department heads,*** and a reasonable number of other assistants, secretaries, and clerical workers within the office of the county judge/executive as determined by the fiscal court***. These employees may be removed at the county judge/executive's discretion without the approval of the fiscal court***[~~, who shall serve at his pleasure. The fiscal court, pursuant to KRS 64.530(4), shall fix reasonable compensation for the deputy county judge/executive and such other employees~~].

(2) The deputy county judge/executive may exercise all administrative powers, duties, and responsibilities of that office, and may assume[~~ such~~] other responsibilities as shall be prescribed in the administrative code of the county, except that the deputy county judge/executive shall not act for the county judge/executive as a member or presiding officer of the fiscal court.

The Committee Amendment No. 1 to **HB 893** is as follows:

On page 3, line 7 after the word "*court*" by inserting the following:

"***. For the purposes of this section, "department head" shall mean any management employee with responsibilities for supervising employees segregated within the county budget as a department or office under the jurisdiction of the county judge/executive and the county fiscal court. The title "department head" shall not apply to elected officials***".

HB 999, AN ACT relating to the jurisdiction of sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) A sheriff or deputy sheriff may execute a warrant issued by a judge of the Commonwealth of Kentucky in any county in the Commonwealth. The sheriff or deputy sheriff shall take the accused, with the warrant under which he or she was arrested, to the county in which the offense was alleged to have been committed for examination before any judge of that county.

(2) The county in which the offense is alleged to have been committed shall pay the sheriff or deputy sheriff his or her expenses incurred in transporting the arrested person to that county. The sheriff or deputy sheriff may lodge the arrested person in any county jail for a time necessary to enable the sheriff or deputy to prepare to take the arrested person to the county in which the offense is alleged to have been committed. Any expenses incurred in lodging the arrested person in a county jail outside of the county in which the offense is alleged to have been committed shall be borne by the county in which the offense is alleged to have been committed.

The Committee Substitute No. 1 to **HB 999** is as follows:

HB 999, AN ACT relating to the jurisdiction of sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

When a peace officer specified in KRS 431.007 is lawfully conducting an assistance operation under KRS 431.007, any

insurance relative to the performance of his duties, including, but not limited to, worker's compensation, health, liability, and motor vehicle insurance, maintained by the peace officer or the peace officer's employer, shall remain in force.

The Committee Amendment No. 1 Title to **HB 999** is as follows:

Amend title to read as follows: "AN ACT relating to insurance for peace officers.".

HB 1024, AN ACT relating to the salaries of fee officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.535 is amended to read as follows:

(1) The county judge/executive, clerk, jailer who operates a full service jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in KRS 64.5275.

(2) If, after the fiscal court is notified by the clerk or sheriff that the third quarter report indicates insufficient funds are available for the payment of the salaries of the clerk or sheriff for the fourth quarter, then the fiscal court shall ensure for the duration of the fourth quarter that for each monthly pay period the clerk or sheriff is paid an amount of money that will make the clerk's or sheriff's monthly salary equal to one-twelfth (1/12) of the amount indicated by the salary schedule in KRS 64.5275.

The Committee on Health and Welfare reported **SB 128,** with House Committee Substitute attached thereto, **SB 227,** with House Committee Substitute attached thereto, and **SB 272** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 128, AN ACT relating to medical treatment of mentally ill persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.161 is amended to read as follows:

Any person admitted to a hospital pursuant to the provisions of this chapter shall be initially examined by an authorized staff physician of the hospital *licensed under KRS Chapter 311, a physician assistant as defined in KRS 311.550, or an advanced registered nurse practitioner licensed under KRS Chapter 314* as soon as practicable but not later than thirty-six (36) hours (excluding weekends and holidays) and a report entered into the medical record not later than forty-eight (48) hours (excluding weekends and holidays) after his admission.

The House Committee Substitute No. 1 to **SB 128** is as follows:

SB 128, AN ACT relating to medical treatment of mentally ill persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.161 is amended to read as follows:

Any person admitted to a hospital pursuant to the provisions of this chapter shall be initially examined by an authorized staff physician of the hospital *or, with permission of the facility's governing body and in accordance with the applicable provisions of the facility's medical staff bylaws, policies, and procedures, a physician assistant as defined in KRS 311.550, or an advanced registered nurse practitioner licensed under KRS Chapter 314* as soon as practicable but not later than thirty-six (36) hours (excluding weekends and holidays) and a report entered into the medical record not later than forty-eight (48) hours (excluding weekends and holidays) after his admission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) A physician assistant, licensed under KRS Chapter 311, when those duties and responsibilities are within the scope of training received in an approved program and within the scope of the supervising physician's practice, or an advanced registered nurse practitioner licensed under KRS Chapter 314, may:

(a) Perform a history and physician examination for a patient admitted to an acute care or psychiatric hospital licensed under this chapter; and

(b) Order and review continuation of restraints and seclusion as an independent practitioner in accordance with 42 C.F.R. 482.13.

(2) A history and physical examination shall be performed no more than seven (7) days before or twenty-four (24) hours after a patient is admitted to an acute care or psychiatric hospital licensed under this chapter.

(3) The history and physical examination that has been performed in compliance with subsection (2) of this section is transferable to another licensed level of care within the same hospital.

(4) The Cabinet for Health Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the content of the history and physical examination required by subsection (2) of this section performed in an acute or psychiatric hospital that shall be used by the licensing entity.

SB 227, AN ACT relating to acquired immunodeficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.520 is amended to read as follows:

(1) After hearing the case, the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has the information to the adoptive parents and to the Circuit Court not later than the date of finalization of the adoption proceedings***. This information shall include the results of any tests for HIV or hepatitis A, B, and C***; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to that person. The information shall not be made available if it is of a nature that would tend to identify the biological parents of the adopted person except as provided in KRS 199.570 and 199.572.

Section 2. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control ***and Prevention*** of the United States Public Health Service. ***No later than October 1, 2000,*** the cabinet shall require reporting of cases of human immunodeficiency virus infection by ***reporting of a unique code and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in Section 4 of this Act***~~[July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient]~~. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Advisory Council to consist of no more than twenty-five (25) members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:

(a) The commissioner of the Department for Public Health;

(b) The commissioner of the Department for Medicaid Services;

(c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;

(d) Physicians representing different geographic regions of the state;

(e) HIV or AIDS clients; and

(f) Representatives of community-based organizations from different geographic regions of the state.

To the extent possible, membership of the council shall reflect the epidemiology of the HIV/AIDS epidemic.

(2) The members designated under paragraphs (a) to (c) of subsection (1) of this section shall serve for the duration of service in their offices, subject to removal for cause by the Governor. These members shall not be paid for attending council meetings, but may receive reimbursement of expenses.

(3) The members serving under paragraphs (d) to (f) of subsection (1) of this section shall be appointed by the cabinet from lists submitted by the appropriate licensing entities of the profession involved, by the cabinet, and by community-based organizations. These members shall serve for a term of four (4) years and may be reappointed, but the members shall not serve for more than two (2) consecutive terms.

(4) The chair of the council shall be elected from the membership serving under paragraphs (d) to (f) of subsection (1) of this section.

(5) The functions of the council shall include, but shall not be limited to:

(a) Reporting its findings to the cabinet and monitoring the responsiveness of the cabinet to insure that the council's recommendations are being followed;

(b) Exploring the feasibility, design, cost, and necessary funding for centers of excellence to deliver comprehensive, coordinated medical and related care to all people with HIV or AIDS in the Commonwealth based on national clinical guidelines and practice standards. Coordinated medical care shall include, but not be limited to access to:

1. AIDS primary care;

2. Drug therapy;

3. Specialists' care, including psychiatric and other mental health providers;

4. Case management services;

5. *Dental care;*
6. *Chemical dependency treatment; and*
7. *Basic needs, including but not limited to, housing and food;*

(c) Assessing resources and gaps in services provided for persons with HIV or AIDS;

(d) Subdividing into necessary subcommittees. One (1) subcommittee may be formed that will consist solely of persons living with HIV or AIDS. This subcommittee shall make those recommendations as it deems necessary to the council, including recommendations on effective peer-based prevention programs; and

(e) Reporting its findings and recommendations to the General Assembly and the Interim Joint Committee on Health and Welfare by September 1, 2001, and by September 1 of each year thereafter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall establish a system for reporting, by the use of a unique code, of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. As recommended by the CDC, anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.

(2) The reporting system established under subsection (1) of this section shall:

(a) Use a unique code that consists of any combination of initials, the last four (4) numbers of the Social Security number, birth date, or other information to be determined by the cabinet;

(b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;

(c) Require collection of the unique code and data from all private and public sources of HIV-related testing and care services; and

(d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider making the report to verify completeness, timeliness, and accuracy.

(3) Authorized surveillance staff designated by the cabinet shall:

(a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;

(b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare;

(c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;

(d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;

(e) Assure that electronic transfer of data is protected by encryption during transfer;

(f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;

(g) Restrict access to data a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;

(h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;

(i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;

(j) Prohibit release of any unique codes or any other identifying information that may have been received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a unique code or any identifying information be reported to the CDC; and

(k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.

(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the unique code in accordance with the procedure for establishing the unique code established by the cabinet in an administrative regulation. The physician and medical laboratory shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall:

(a) Conduct a review of any guidelines for HIV or acquired immunodeficiency syndrome (AIDS) care coordination to insure:

1. Consistency;

2. Comprehensive in service; and

3. That access to health care and sustaining individuals infected with HIV/AIDS in primary HIV-related medical care is the top priority for care coordinators;

(b) Conduct objective peer reviews, as necessary, of each care coordination agency to insure that care coordinators are in compliance with the care coordination guidelines;

(c) Conduct outcome evaluations, as necessary and as permitted by funding limitations, to measure the quality and impact of the care coordinator delivery system;

(d) Review the need for additional care coordinators to assure that client caseloads are manageable and, to the extent that funds are available, strive for a maximum client caseload of forty (40) to fifty (50) clients per care coordinator. If, after this review, the cabinet finds the need for additional staff, it may develop a plan and request funding for the hiring of additional care coordinators in the geographic areas of greatest need;

(e) Review eligibility criteria for persons who wish to receive treatment medications through the Kentucky AIDS Drug Assistance Program to insure that these funds are the funds of last resort;

(f) Review the data collected under Section 4 of this Act to determine whether allocated resources are sufficiently distributed to meet the geographic distribution of reported HIV and AIDS cases;

(g) Work with other agencies, departments, and cabinets to advise on their development of educational HIV and AIDS programs that are mandated by law;

(h) Urge access to Spanish-speaking interpreters to provide prevention, treatment, and service efforts where needed in the Commonwealth;

(i) Provide for consistent and comprehensive HIV and AIDS counseling and testing education in all public health departments as needed;

(j) Require collaboration between HIV prevention educators and HIV care coordinators with the goal of reducing the further transmission of HIV by those already infected; and

(k) Encourage community-based organizations to develop an outreach program designed to foster active partnerships with willing faith-based communities. These partnerships may be used to educate community members about illegal drug use, the value of harm reduction programs, and HIV and AIDS prevention and services.

(2) Authorized surveillance staff designated by the cabinet shall review all known cases of newborns with perinatal exposure to HIV infection or with HIV infection.

(3) Any pharmacy or clinic that provides HIV or AIDS-related medications through the Kentucky AIDS Drug Assistance Program or any other state assistance program shall:

(a) Be encouraged to provide pharmacological consultation reimbursement with written documentation. Documentation may include date of interview, assessment of timely drug refills, side effects, problems, remediation, outcomes noted, and the pharmacist's HIV specialized physician; and

(b) Be encouraged to seek HIV pharmacological certification in addition to already recommended continuing education training on HIV and AIDS.

SECTION 6. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The cabinet may make available information about grant opportunities to nonprofit clinics in the Commonwealth that are established to provide treatment in a multidisciplinary team approach for patients with HIV and AIDS.

Section 7. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results

will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person[~~,~~] who has obtained or has knowledge of a test result pursuant to this section[~~,~~] shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health-care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order ***that***[~~which~~] is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he ***or she*** is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing ***that***~~[which]~~ includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. ***If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the unique code and other information specified under Section 4 of this Act shall be reported to the cabinet.*** The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he ***or she*** does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 8. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests~~[,]~~ is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person~~[,]~~ who has obtained or has knowledge of a test result pursuant to this section~~[,]~~ shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;
2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;
4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;
5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;
6. A health facility or health-care provider which procures, processes, distributes, or uses:
    a. A human body part from a deceased person, with respect to medical information regarding that person; or
    b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;
7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;
10. A person allowed access by a court order which is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;
    d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;
    e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. ***If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the unique code and other information specified in Section 4 of this Act shall be reported to the cabinet.*** The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he ***or she*** does not advertise or hold himself ***or herself*** out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 9. KRS 222.421 is amended to read as follows:

(1) Any person may request treatment from a physician or alcohol and other drug abuse program licensed or approved by the Cabinet for Health Services to provide alcohol and other drug abuse treatment services. ***Persons infected with HIV, hepatitis B, or hepatitis C shall have priority access to any licensed treatment services.***

(2) Every alcohol and other drug abuse program that provides intervention or treatment services to a person with an alcohol

and other drug abuse problem or prevention programming to any persons in the community shall, upon request of the Cabinet for Health Services, make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary of the Cabinet for Health Services shall provide compilations of the statistical information to other appropriate agencies upon request.

Section 10. KRS 311.282 is amended to read as follows:

(1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for the disclosure of otherwise confidential information under the following circumstances:

(a) If a patient of the physician has tested positive for human immunodeficiency virus discloses to the physician the identity of a spouse or sexual partner with whom the patient has cohabitated for more than one (1) year; and

(b) The physician recommends the patient notify the spouse or sexual partner of the positive test and refrain from engaging in sexual activity in a manner likely to transmit the virus and the patient refuses;~~[and]~~

(c) If, pursuant to a perceived civil duty or the ethical guidelines of the profession, the physician reasonably and in good faith advises the spouse of the patient or sexual partner with whom the patient has cohabitated for more than one (1) year of the positive test and facts concerning the transmission of the virus***; and***

(d) The physician reports information about HIV status to the Cabinet for Health Services pursuant to administrative regulations promulgated by the cabinet.

(2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a spouse.

Section 11. KRS 438.250 is amended to read as follows:

(1) When a public servant, as defined in KRS 521.010, ***a health care professional who is licensed or certified under the laws of the Commonwealth, an employee of the health care professional, an employee of a health care facility that is licensed under the laws of the Commonwealth,*** or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis A, B, and C, and tuberculosis.

(2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

The House Committee Substitute No. 1 to **SB 227** is as follows:

SB 227, AN ACT relating to acquired immunodeficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.520 is amended to read as follows:

(1) After hearing the case, the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its

birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has the information to the adoptive parents and to the Circuit Court not later than the date of finalization of the adoption proceedings. ***This information shall include the results of any tests for HIV or hepatitis A, B, and C***; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to that person. The information shall not be made available if it is of a nature that would tend to identify the biological parents of the adopted person except as provided in KRS 199.570 and 199.572.

Section 2. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control ***and Prevention*** of the United States Public Health Service. ***No later than October 1, 2000,*** the cabinet shall require reporting of cases of human immunodeficiency virus infection by ***reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in Section 4 of this Act***[~~July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient~~]. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose

of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Advisory Council to consist of no more than twenty-five (25) members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:

- *(a) The commissioner of the Department for Public Health;*
- *(b) The commissioner of the Department for Medicaid Services;*
- *(c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;*
- *(d) Physicians representing different geographic regions of the state;*
- *(e) HIV or AIDS clients; and*
- *(f) Representatives of community-based organizations from different geographic regions of the state.*

To the extent possible, membership of the council shall reflect the epidemiology of the HIV/AIDS epidemic.

(2) The members designated under paragraphs (a) to (c) of subsection (1) of this section shall serve for the duration of service in their offices, subject to removal for cause by the Governor. These members shall not be paid for attending council meetings, but may receive reimbursement of expenses.

(3) The members serving under paragraphs (d) to (f) of subsection (1) of this section shall be appointed by the cabinet from lists submitted by the appropriate licensing entities of the profession involved, by the cabinet, and by community-based organizations. These members shall serve for a term of four (4) years and may be reappointed, but the members shall not serve for more than two (2) consecutive terms.

(4) The chair of the council shall be elected from the membership serving under paragraphs (d) to (f) of subsection (1) of this section.

(5) The functions of the council shall include, but shall not be limited to:

- *(a) Reporting its findings to the cabinet and monitoring the responsiveness of the cabinet to insure that the council's recommendations are being followed;*
- *(b) Exploring the feasibility, design, cost, and necessary funding for centers of excellence to deliver comprehensive, coordinated medical and related care to all people with HIV or AIDS in the Commonwealth based on national clinical guidelines and practice standards. Coordinated medical care shall include, but not be limited to access to:*
    - *1. AIDS primary care;*
    - *2. Drug therapy;*
    - *3. Specialists' care, including psychiatric and other mental health providers;*
    - *4. Case management services;*
    - *5. Dental care;*
    - *6. Chemical dependency treatment; and*
    - *7. Basic needs, including but not limited to, housing and food;*
- *(c) Assessing resources and gaps in services provided for persons with HIV or AIDS;*
- *(d) Subdividing into necessary subcommittees. One (1) subcommittee may be formed that will consist solely of persons living with HIV or AIDS. This subcommittee shall make those recommendations as it deems necessary to the council, including recommendations on effective peer-based prevention programs; and*
- *(e) Reporting its findings and recommendations to the General Assembly and the Interim Joint Committee on Health and Welfare by September 1, 2001, and by September 1 of each year thereafter.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall establish a system for reporting, by the use of the person's name, of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and

Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. As recommended by the CDC, anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.

(2) The reporting system established under subsection (1) of this section shall:

(a) Use the same confidential name-based approach for HIV surveillance that is used for AIDS surveillance by the cabinet;

(b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;

(c) Require collection of the names and data from all private and public sources of HIV-related testing and medical services; and

(d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider making the report to verify completeness, timeliness, and accuracy.

(3) Authorized surveillance staff designated by the cabinet shall:

(a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;

(b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare;

(c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;

(d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;

(e) Assure that electronic transfer of data is protected by encryption during transfer;

(f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;

(g) Restrict access to data to a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;

(h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;

(i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;

(j) Prohibit release of any names or other identifying information received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a name or any identifying information be reported to the CDC; and

(k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall:

(a) Conduct a review of any guidelines for HIV or acquired immunodeficiency syndrome (AIDS) care coordination to insure:

1. Consistency;

2. Comprehensive in service; and

3. That access to health care and sustaining individuals infected with HIV/AIDS in primary HIV-related medical care is the top priority for care coordinators;

(b) Conduct objective peer reviews, as necessary, of each care coordination agency to insure that care coordinators are in compliance with the care coordination guidelines;

(c) Conduct outcome evaluations, as necessary and as permitted by funding limitations, to measure the quality and impact of the care coordinator delivery system;

(d) Review the need for additional care coordinators to assure that client caseloads are manageable and, to the

extent that funds are available, strive for a maximum client caseload of forty (40) to fifty (50) clients per care coordinator. If, after this review, the cabinet finds the need for additional staff, it may develop a plan and request funding for the hiring of additional care coordinators in the geographic areas of greatest need;

(e) Review eligibility criteria for persons who wish to receive treatment medications through the Kentucky AIDS Drug Assistance Program to insure that these funds are the funds of last resort;

(f) Review the data collected under Section 4 of this Act to determine whether allocated resources are sufficiently distributed to meet the geographic distribution of reported HIV and AIDS cases;

(g) Work with other agencies, departments, and cabinets to advise on their development of educational HIV and AIDS programs that are mandated by law;

(h) Urge access to Spanish-speaking interpreters to provide prevention, treatment, and service efforts where needed in the Commonwealth;

(i) Provide for consistent and comprehensive HIV and AIDS counseling and testing education in all public health departments as needed;

(j) Require collaboration between HIV prevention educators and HIV care coordinators with the goal of reducing the further transmission of HIV by those already infected; and

(k) Encourage community-based organizations to develop an outreach program designed to foster active partnerships with willing faith-based communities. These partnerships may be used to educate community members about illegal drug use, the value of harm reduction programs, and HIV and AIDS prevention and services.

(2) Authorized surveillance staff designated by the cabinet shall review all known cases of newborns with perinatal exposure to HIV infection or with HIV infection.

(3) Any pharmacy or clinic that provides HIV or AIDS-related medications through the Kentucky AIDS Drug Assistance Program or any other state assistance program shall:

(a) Be encouraged to provide pharmacological consultation reimbursement with written documentation. Documentation may include date of interview, assessment of timely drug refills, side effects, problems, remediation, outcomes noted, and the pharmacist's HIV specialized physician; and

(b) Be encouraged to seek HIV pharmacological certification in addition to already recommended continuing education training on HIV and AIDS.

SECTION 6. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The cabinet may make available information about grant opportunities to nonprofit clinics in the Commonwealth that are established to provide treatment in a multidisciplinary team approach for patients with HIV and AIDS.

Section 7. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person~~[,]~~ who has obtained or has knowledge of a test result pursuant to this section~~[,]~~ shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;
2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;
4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;
5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;
6. A health facility or health-care provider which procures, processes, distributes, or uses:
    a. A human body part from a deceased person, with respect to medical information regarding that person; or
    b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;
7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A person allowed access by a court order ***that***~~[which]~~ is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he ***or she*** is not already a party;
    d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;
    e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing ***that***~~[which]~~ includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. ***If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified under Section 4 of this Act shall be reported to the cabinet.*** The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he ***or she*** does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 8. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests~~[,]~~ is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person~~[,]~~ who has obtained or has knowledge of a test result pursuant to this section~~[,]~~ shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health-care provider which procures, processes, distributes, or uses:

   a. A human body part from a deceased person, with respect to medical information regarding that person; or

   b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying

characteristics or information;

9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;
10. A person allowed access by a court order which is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;
    d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;
    e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. ***If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the name and other information specified in Section 4 of this Act shall be reported to the cabinet.*** The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he ***or she*** does not advertise or hold himself ***or herself*** out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 9. KRS 222.421 is amended to read as follows:

(1) Any person may request treatment from a physician or alcohol and other drug abuse program licensed or approved by the Cabinet for Health Services to provide alcohol and other drug abuse treatment services. ***Persons infected with HIV, hepatitis B, or hepatitis C shall have priority access to any licensed treatment services.***

(2) Every alcohol and other drug abuse program that provides intervention or treatment services to a person with an alcohol and other drug abuse problem or prevention programming to any persons in the community shall, upon request of the Cabinet for Health Services, make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary of the Cabinet for Health Services shall provide compilations of the statistical information to other appropriate agencies upon request.

Section 10. KRS 311.282 is amended to read as follows:

(1) A physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable for the disclosure of otherwise confidential information under the following circumstances:

(a) If a patient of the physician has tested positive for human immunodeficiency virus discloses to the physician the identity of a spouse or sexual partner with whom the patient has cohabitated for more than one (1) year; and

(b) The physician recommends the patient notify the spouse or sexual partner of the positive test and refrain from engaging in sexual activity in a manner likely to transmit the virus and the patient refuses;~~[and]~~

(c) If, pursuant to a perceived civil duty or the ethical guidelines of the profession, the physician reasonably and in good faith advises the spouse of the patient or sexual partner with whom the patient has cohabitated for more than one (1) year of the positive test and facts concerning the transmission of the virus***; and***

(d) The physician reports information about HIV status to the Cabinet for Health Services pursuant to administrative regulations promulgated by the cabinet.

(2) Notwithstanding the foregoing, a physician licensed pursuant to KRS Chapter 311 shall not be civilly or criminally liable

for failure to disclose information relating to a positive test result for human immunodeficiency virus of a patient to a spouse.

Section 11. KRS 438.250 is amended to read as follows:

(1) When a public servant, as defined in KRS 521.010, ***a health care professional who is licensed or certified under the laws of the Commonwealth, an employee of the health care professional, an employee of a health care facility that is licensed under the laws of the Commonwealth,*** or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis~~[A,]~~ B~~[,]~~ and C ***viruses***, and ***any other disease if testing for that disease is recommended by the Centers for Disease Control and Prevention, and if testing for any of these conditions is recommended, then testing will be conducted as recommended by the Centers for Disease Control and Prevention***~~[tuberculosis]~~.

(2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Section 12. KRS 211.964 is amended to read as follows:

(1) The Cabinet for Health Services shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. The continuing education program ***may include updated training as specified under***~~[shall be subject to the requirements of]~~ KRS 214.610(1).

(3) In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.

(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.

(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.

(6) ~~[Other than the requirements of KRS 214.610(1),]~~The cabinet shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.

(7) ~~[Other than the requirements of KRS 214.610(1),]~~Any person certified by the State Board of Medical Licensure as a paramedic shall be certified as an emergency medical technician by the cabinet. The certification shall be issued without

fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that paramedic certification is issued or expires, and if a paramedic voluntarily gives up his certification prior to the expiration of his paramedic certification, his emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to recertify as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic certification, recertify as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(8) A paramedic whose certification as a paramedic is suspended, revoked, or denied by the State Board of Medical Licensure shall have the same action taken automatically by the cabinet with regard to his emergency medical technician certification.

Section 13. KRS 214.610 is amended to read as follows:

(1) ***(a)*** The Cabinet for Health Services shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians licensed pursuant to KRS Chapter 211. ***Continuing education shall not be required under this section unless the licensing or certifying entities specifically require completion under administrative regulations promulgated in accordance with KRS Chapter 13A.***

(b) To the extent possible, the educational courses or programs under this subsection shall:

1. Be approved by the cabinet with input from the colleges of medicine and allied health in the Commonwealth;

2. Be updated on a biennial basis, with emphasis placed on changes in Kentucky law affecting HIV testing and reporting; confidentiality and privacy of HIV-related data, information, and reports; and advances in treatment protocols, intervention protocols, coordination of services, and other information deemed important by the Department for Public Health, the colleges of medicine and allied health, and the HIV and AIDS Advisory Council;

3. Inform all professions involved with or affected by the birthing process about the importance of HIV testing of pregnant women and the probability of preventing perinatal transmission of HIV with appropriate treatment; and

4. Update all health care professionals identified under paragraph (a) of this subsection requesting information about the potential involvement of their occupation in the treatment or prevention of blood-borne pathogens, HIV, or AIDS. Priority should be given to insure that individuals who work with persons who are infected, affected, or at risk receive education on transmission, prevention, psychosocial, risk assessment, and referral resources, and the education should be specific to the specialty of the health care professional or other occupations.

The design of these programs should involve contact with the appropriate professional associations, societies, and licensing or certifying entities. Information under this subsection may be updated more often than biennially upon recommendation from the Centers for Disease Control and Prevention.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 14. KRS 311.450 is amended to read as follows:

(1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and canceled.

(2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. The regulations ***may***~~[shall]~~ include a requirement to complete the course described in KRS 214.610(1)***, subject to the discretion of the board***. If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses

in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

Section 15. KRS 312.175 is amended to read as follows:

(1) After July 14, 1992, all persons licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his license and pay a renewal fee of not more than one hundred dollars ($100) for each nonresident licensee and not more than two hundred dollars ($200) for each resident licensee each year to the board. In addition to the payment of the renewal fee, the licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he has attended an educational program in the year preceding each application for renewal. Satisfactory evidence of attendance of postgraduate study at an institution approved by the board shall be considered equivalent. Any education ***may***[~~shall~~] include completion of the course described in KRS 214.610(1)***, subject to the discretion of the board***. Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program, or both, in instances where the applicant submits an affidavit to the board evidencing that he, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent and is subject to a late penalty of one hundred dollars ($100). If the licensee fails to renew his license within ninety (90) days after the mailing of the delinquent notice then his license shall be revoked for nonrenewal. Any licensee whose license has been revoked for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed two hundred dollars ($200) for each delinquent year or any part thereof in addition to the renewal fee of not more than three hundred dollars ($300) and upon presentation of satisfactory evidence of postgraduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

Section 16. KRS 313.080 is amended to read as follows:

(1) Each person who is licensed to practice dentistry in Kentucky shall, by the thirty-first day of December of each odd-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director, and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following even-numbered year and ending on the last day of December of the following odd-numbered year.

(2) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dentist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. However, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for any hardship or other extenuating circumstances that the board deems appropriate. The continuing dental education ***may***[~~shall~~] include completion of the course described in KRS 214.610(1)***, subject to the discretion of the board***.

(3) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dentist licensed to practice in this state shall return to the board the renewal notice properly signed and a license fee in the amount prescribed by the board. The dentist shall thereupon receive a license renewal certificate, if the dentist has also complied with the requirements of subsection (2) of this section. The board shall fix the license fee at an amount as is necessary to maintain a revolving fund at an approximate level of one hundred fifty thousand dollars ($150,000). The license fee for each licensing period shall be set by the board. Notice of the amount of license renewal fee shall be given to each dentist licensed in the state by the board not later than thirty (30) days before the end of the renewal period.

(4) Any license granted by the board shall be automatically suspended if the holder fails to submit a properly completed renewal application to the board, with payment of the renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any license thus suspended may be restored by the board upon the payment to the board of the biennial registration fee, and in addition thereto, a reinstatement fee of fifty dollars ($50) within one (1) year after the suspension.

(5) Each dentist licensed under this chapter shall notify the board in writing of any change in the person's name, office address, or employment within ten (10) days after the change has taken place.

Section 17. KRS 313.305 is amended to read as follows:

(1) Each person who is licensed to practice dental hygiene in the Commonwealth shall, by the thirty-first day of December of each even-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following odd-numbered year and ending on the last day of December of the following even-numbered year.

(2) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dental hygienist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education ***may***[~~shall~~] include completion of the course described in KRS 214.610(1)***, subject to the discretion of the board***. In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. However, the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for any hardship or other extenuating circumstances that the board deems appropriate.

(3) By December 31 of each biennial licensing period as provided in subsection (1) of this section, every dental hygienist licensed to practice in this state shall return to the board the hygienist's renewal notice properly signed and a fee prescribed by the board by administrative regulation subject to the provisions of KRS Chapter 13A. The dental hygienist shall then receive a license renewal certificate, if compliance with the requirements of subsection (1) of this section is met. The biennial renewal license fee shall be established by the board in an amount as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each licensing period shall be set biennially by the board. Notice of change in the amount of license renewal fee shall be given to each dental hygienist licensed in the state by the board not later than thirty (30) days prior to each renewal period.

(4) Any license granted by the board shall be suspended if the holder fails to submit a properly completed renewal application to the board, with payment of a renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any license thus suspended may be restored by the board upon the payment to the board of the biennial registration fee and, in addition thereto, of a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

(5) Each dental hygienist licensed to practice under this chapter shall notify the board in writing of any change in the licensee's name, office address, or employment within ten (10) days after the change has taken place.

Section 18. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document the completion of continuing education requirements not to exceed thirty (30) contact hours in a given licensure period as prescribed in regulations promulgated by the board. A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.

(2) Contact hours required to satisfy the continuing education requirement shall be completed and reported in accordance with board requirements set forth by regulation.

(3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

(6) The continuing education ***may***[~~shall~~] include the completion of the course described in KRS 214.610(1)***, subject to the discretion of the board***.

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing education requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.

(8) The continuing education requirements shall include at least five (5) contact hours in pharmacology for any person registered as an advanced registered nurse practitioner.

Section 19. KRS 315.065 is amended to read as follows:

(1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional

competency to practice in the public interest.

(2) No pharmacist's license shall be renewed until the license holder is able to submit written proof to the board that he has satisfactorily completed, in the previous renewal period, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board, ***and may include***~~[provided]~~ the course described in KRS 214.610(1)~~[is included]~~, but they shall not require more than an average of one and one-half (1-1/2) continuing education units (CEU) per year.

(3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

Section 20. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than two hundred dollars ($200). Not later than February 15 of each year the secretary-treasurer shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon a form as is prescribed by the board and the optometrist shall furnish the information required by the form. As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The annual courses of study ***may***~~[shall]~~ include the course described in KRS 214.610(1)***, subject to the discretion of the board***. The length and content of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state. The board shall waive the continuing education requirement in cases of illness or undue hardship.

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 21. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy and be a graduate of an accredited school of physical therapy approved by the board and shall have fulfilled the requirements of KRS 214.615(1). No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the qualifications required by this chapter and who desires to apply for licensure as a physical therapist in Kentucky shall make written application to the board, on forms to be provided by the board. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by the board, but not to exceed two hundred fifty dollars ($250). Upon acceptance by the board of the application, the applicant shall pay an examination fee in an amount sufficient to cover the actual cost of the examination and shall successfully complete the board-approved examination.

(3) If it appears from the application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, the applicant shall be admitted to the next scheduled examination and tested in the subjects the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at the time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by

administrative regulation, permit applicants to take the examination more than once.

(8) All licenses shall be renewed biennially, upon payment on or before March 31 of each uneven numbered year of a renewal fee to be fixed by the board in an amount not to exceed one hundred dollars ($100). Any ***continuing education requirements established by the board for a*** licensed person seeking renewal ***may provide, subject to the discretion of the board, for***~~[shall include proof of the]~~ completion of the course described in KRS 214.610(1)~~[on the form provided by the cabinet]~~.

(9) Licenses which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days; or

(d) The practice of chiropractic as defined in KRS 312.015(3).

Section 22. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

(1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.

(2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.

(3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.

(6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.

(7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.

(8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.

(9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.

(10) Failure of medical laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory, to complete the course specified in KRS 214.610(1)***, as may be required by the cabinet***~~[on an annual basis]~~.

SB 272, AN ACT relating to cremation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.97524 is amended to read as follows:

(1) *A*~~[No]~~ crematory authority shall ***not*** conduct any cremations, nor accept a body for cremation, unless it has a cremation authorization form signed by the authorizing agent clearly stating the disposition to be made of the cremated remains.

(2) Cremated remains shall be disposed of by placing them in a grave, crypt, or niche; by scattering them in a scattering area; or in any manner on the private property of a consenting owner. The crematory authority may deliver, either in person or by registered mail, the cremated remains to the designated individual specified on the cremation authorization form. Upon receipt of the cremated remains, the individual receiving them may keep or transport them in any manner in this Commonwealth without a permit. After delivery, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains relative to disposition.

(3) A crematory authority or a licensed funeral director arranging a cremation shall not be held liable for good faith reliance on representations made by the authorizing agent regarding the authority to cremate.

Section 2. KRS 367.97527 is amended to read as follows:

(1) A person, or anyone who has legal authority to act on behalf of that person, may authorize his ***or her*** own cremation and

the final disposition of his ***or her*** cremated remains, by executing, as the authorizing agent, a preneed cremation authorization form. The original preneed cremation authorization form shall be retained by the entity with which the arrangements are made. A copy of the preneed cremation authorization form shall be provided to the person signing the preneed arrangements. The person prearranging his own cremation shall have the right to transfer or cancel this authorization at any time prior to death, by notifying the entity with which the preneed cremation authorization form is filed by certified mail.

(2) In the event that no different or inconsistent instructions are provided to the crematory authority at the time of death, the crematory authority shall release or dispose of the cremated remains as indicated in the preneed agreement.

(3) In the event that there is a conflict between the decedent' s prearrangement and the demands of the next class of authorizing agent in the order set forth in KRS 367.97501(1) regarding cremation, the crematory shall not accept for cremation those human remains without an order deciding the issues entered by the District Court of the county of the decedent's residence ***or the county where the funeral home or the crematory authority is located***. This order may be issued by the court after a petition for resolution has been initiated by any natural person listed in KRS 367.97501(1) or the crematory authority. Unless extraordinary circumstances exist, the court shall give due deference to the desires of the deceased as expressed in the prearrangement.

(4) Neither the crematory authority nor a licensed funeral director arranging a cremation shall be held liable for the crematory authority's or the funeral director's good faith reliance on representations made by the authorizing agent regarding the authority or decision to cremate.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 962** and **HB 1020** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 962, AN ACT relating to public safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) No person doing business in the Commonwealth of Kentucky shall send an employee, independent contractor, or agent of the person into another's residence until that person has obtained a criminal history background check on the employee, independent contractor, or agent from either the Kentucky Justice Cabinet or the Administrative Office of the Courts.

(2) Every person sending his employee, independent contractor, or agent into another's residence shall furnish the employee, independent contractor, or agent with a conspicuous written statement that, "STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF GAINING ENTRY TO THE RESIDENCE OF ANOTHER PERSON FOR BUSINESS PURPOSES."

(3) Any request for criminal records of a present or prospective employee, independent contractor, or agent as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the person requesting the background check in an amount no greater than the actual cost of processing the request.

(4) The owner or occupant of a residence may waive the requirement of this section that the person entering the home shall have been the subject of a criminal history background check by providing a written waiver to the person entering the residence.

HB 1020, AN ACT relating to senior citizen centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The board that operates any senior citizens center that receives state or federal funds or support of any kind under this chapter shall:

- ***(a) Poll the center's users as to their preference for a smoking or nonsmoking policy; and***
- ***(b) Decide, after polling center users and giving them an opportunity for input, whether the senior citizens center should adopt a policy that would support a limitation on smoking areas.***

(2) If the board decides to adopt a policy that places a limitation on smoking areas, the policy shall:

- ***(a) Designate an accessible indoor smoking area in any building where smoking is otherwise restricted; and***
- ***(b) Favor allowing smoking in an open and public area where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority.***

(3) Any policy adopted by a board under this section shall be reduced to writing and displayed in a conspicuous place near the most frequently used entrance to the senior citizens center.

The Committee on Banking and Insurance reported **HB 680,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 680, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves,

whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) *(a)* The premiums may be paid by the policyholder:

1.[~~(a)~~] Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

2.[~~(b)~~] Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

3.[~~(c)~~] Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(b) The state shall provide single coverage through a defined benefit plan for each state employee group member.

(c) The state shall contribute for dependent coverage for each state employee group member who selects dependent coverage:

1. An amount equal to seventy-five percent (75%) of the amount of the premium for the parent-plus coverage for the selected plan type that exceeds the amount of the state contribution for individual coverage for the same plan type; and

2. An amount equal to fifty percent (50%) of the amount of the premium for the couple and family coverages for the selected plan type that exceeds the amount of the state contribution for individual coverage for the same plan type.

(d) The state may contribute to an employee's flexible spending account an amount up to seventy-five percent (75%) of the state contribution per employee, except for retirees living out-of-state who may receive the full contribution from the state.

(e) Municipal, urban-county, and county governments and state institutions of higher education and any other employer of state employees as defined in KRS 18A.225, whose retirees are members of the state employees group, but whose active employees are not participants in the state employees group, shall be assessed an amount determined by the secretary of the Finance and Administration Cabinet which shall be a percentage of the premiums paid by such entity's active employees on health benefit plans to balance any additional costs that would accrue to state employee group members from having such entity's retirees as members of the state employee group.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June

30, 1986.

(12) The secretary shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

The Committee Substitute No. 1 to **HB 680** is as follows:

HB 680, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance,

health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) *(a)* The premiums may be paid by the policyholder:

1.[~~(a)~~] Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

2.[~~(b)~~] Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

3.[~~(c)~~] Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(b) The state shall provide single coverage through a defined benefit plan for each state employee group member.

(c) Upon recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet may authorize the allocation of funds from funds transferred under paragraphs (d) and (e) of this subsection to the state health insurance program's appropriations account to supplement the amount appropriated to the state employee insurance program to be used to increase the amount of the state contribution for dependent coverage for each state employee group member who selects dependent coverage. Part of the transferred funds may be used to pay for any administrative costs to implement this paragraph.

(d) The state may contribute to an employee's flexible spending account an amount up to seventy-five percent (75%) of the state contribution per employee, except for retirees living out-of-state who may receive the full contribution from the state. The difference between the seventy-five percent (75%) state contribution amount and the one hundred percent (100%) state contribution under this paragraph and any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance program's appropriation account.

(e) Municipal, urban-county, and county governments and state institutions of higher education and any other employer of state employees as defined in KRS 18A.225, whose retirees are members of the state employees group, but whose active employees are not participants in the state employees group, shall be assessed an amount determined by the secretary of the Finance and Administration Cabinet which shall be a percentage of the premiums paid by such entity's active employees on health benefit plans to balance any additional costs that would accrue to state employee group members from having such entity's retirees as members of the state employee group. The assessment amounts not required to meet current costs shall be transferred to the credit of the state health insurance program's appropriation account.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The secretary shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) The Personnel Cabinet shall study and make recommendations to the General Assembly prior to the 2002 Regular Session regarding increasing the state contribution for dependent coverage for each state employee group member who selects dependent coverage.

Calendar

HB 446, HB 920, HB 891, HB 940, HB 941, HB 979, SB 57, SB 300, HB 827, HB 859, HB 950, HB 991, HB 1011, HB 1032, HJR 132, HJR 138, HJR 142, HB 939, HCR 116, HB 744, HB 844, HB 267, HB 316, HB 824, and **HB 923** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 668, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved that **HB 668** be passed.

On the roll call the vote was: **Yeas 89, Nays 2.** (See March 14 , 2000 roll call on **HB 668** - Appendix.)

HB 668 was passed and the title agreed to.

Representative Thompson moved that the vote by which **HB 668** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 819 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 819** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 14 , 2000 roll call on **HB 819** - Appendix.)

HB 819 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 819** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 734, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 734**. Agreed.

Representative Damron moved that **HB 734**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 14, 2000 roll call on **HB 734** - Appendix.)

HB 734, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 734**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 711, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of Floor Amendment No. 1 to **HB 711**. Agreed.

Representative Coleman moved that **HB 711**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See March 14, 2000 roll call on **HB 711** - Appendix.)

HB 711, as amended, was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 711**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 593 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 593** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 14 , 2000 roll call on **HB 593** - Appendix.)

HB 593 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 593** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 794 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 794** be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See March 14 , 2000 roll call on **HB 794** - Appendix.)

HB 794 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 794** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 756 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 756** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 14 , 2000 roll call on **HB 756** - Appendix.)

HB 756 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 756** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 412** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

Orders of the Day (Continued)

HB 826, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 826**. Agreed.

Representative Gray moved that **HB 826**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HB 826** - Appendix.)

HB 826, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 826**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 675, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. D. Butler moved the adoption of the Committee Substitute to **HB 675**. Agreed.

Representative D. D. Butler moved that **HB 675**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 14, 2000 roll call on **HB 675** - Appendix.)

HB 675, by way of Committee Substitute, was passed and the title agreed to.

Representative D. D. Butler moved that the vote by which **HB 675**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 736, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 736**. Agreed.

Representative P. Clark moved that **HB 736**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 14, 2000 roll call on **HB 736** - Appendix.)

HB 736, by way of Committee Substitute, was passed.

Representative P. Clark moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 736**. Agreed; and the title was agreed to.

Representative P. Clark moved that the vote by which **HB 736**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 808 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fischer moved that **HB 808** be passed.

On the roll call the vote was: **Yeas 90, Nays 4**. (See March 14 , 2000 roll call on **HB 808** - Appendix.)

HB 808 was passed and the title agreed to.

Representative Fischer moved that the vote by which **HB 808** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 131, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **HJR 131**. Agreed.

Representative Ballard moved that **HJR 131**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HJR 131** - Appendix.)

HJR 131, by way of Committee Substitute, was adopted.

Representative Ballard moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HJR 131**. Agreed; and the title was agreed to.

Representative Ballard moved that the vote by which **HJR 131**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 727, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 727**. Agreed.

Representative Lindsay moved that **HB 727**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 14, 2000 roll call on **HB 727** - Appendix.)

HB 727, by way of Committee Substitute, was passed.

Representative Lindsay moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 727**. Agreed; and the title was agreed to.

Representative Lindsay moved that the vote by which **HB 727**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 412 delivered to the Senate and signed by the President. Delivered to the Governor on March 14, 2000, at 3:07 p.m.

Orders of the Day (Continued)

HB 728, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 728**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 728**. Agreed.

Representative Geveden moved that **HB 728**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 5**. (See March 14, 2000 roll call on **HB 728** - Appendix.)

HB 728, by way of Committee Substitute, was passed.

Representative Geveden moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 728**. Agreed; and the title was agreed to.

Representative Geveden moved that the vote by which **HB 728**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved the adoption of the Committee Substitute No. 2 to **HB 390**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 390**. Agreed.

Representative Johns moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 390**. Agreed.

Representative Johns moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 390**. Agreed.

Representative Johns moved that **HB 390**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 14, 2000 roll call on **HB 390** - Appendix.)

HB 390, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Johns moved that the vote by which **HB 390**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 57, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cornett moved the adoption of the Committee Substitute to **HB 57**. Agreed.

Representative Cornett moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 57**. Agreed.

Representative Cornett moved that **HB 57**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2000 roll call on **HB 57** - Appendix.)

HB 57, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Cornett moved that the vote by which **HB 57**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 437, with Committee Substitute, Committee Amendments, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 437**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 437**. Agreed.

Representative D. D. Butler moved the adoption of Committee Amendment No. 2 to the Committee Substitute to **HB 437**. Agreed.

Representative Moberly moved that **HB 437**, by way of Committee Substitute as amended, be passed.

Representative Bratcher moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 437**. Agreed.

Representative Stein moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 437**. Defeated.

Representative Johns moved the adoption of Floor amendment No. 4 to the Committee Substitute to **HB 437**.

On the roll call the vote was **Yeas 47, Nays 45**. (See March 14, 2000 roll call on Floor Amendment No. 4 to the Committee Substitute to **HB 437** - Appendix)

Floor Amendment No. 4 to the Committee Substitute to **HB 437** was adopted.

Representative Moberly moved that **HB 437**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 9**. (See March 14, 2000 roll call on **HB 437** - Appendix.)

HB 437, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 437**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 640, with Committee Substitute, Committee Amendments, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute No. 1 to **HB 640**. Agreed.

Representative Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 640**. Agreed.

Representative Rasche moved that **HB 640**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2000 roll call on **HB 640** - Appendix.)

HB 640, by way of Committee Substitute as amended, was passed.

Representative Rasche moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 640**. Agreed; and the title was agreed to.

Representative Rasche moved that the vote by which **HB 640**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 629, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HB 629**. Agreed.

Representative Barrows moved that **HB 629**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 14, 2000 roll call on **HB 629** - Appendix.)

HB 629, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 629**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 667 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 667** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 14 , 2000 roll call on **HB 667** - Appendix.)

HB 667 was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 667** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 90, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HJR 90**. Agreed.

Representative Stein moved that **HJR 90**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HJR 90** - Appendix.)

HJR 90, by way of Committee Substitute, was adopted.

Representative Stein moved the adoption of Committee Amendment No. 1 Title to **HJR 90**. Agreed; and the title was agreed to.

Representative Stein moved that the vote by which **HJR 90**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 900, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 900**. Agreed.

Representative Barrows moved that **HB 900**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86**, **Nays 8**. (See March 14, 2000 roll call on **HB 900** - Appendix.)

HB 900, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 900**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 285**. Agreed.

Representative Miller moved that **HB 285**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89**, **Nays 2**. (See March 14, 2000 roll call on **HB 285** - Appendix.)

HB 285, by way of Committee Substitute, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 285**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 830 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 830** be passed.

On the roll call the vote was: **Yeas 88**, **Nays 0**. (See March 14 , 2000 roll call on **HB 830** - Appendix.)

HB 830 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 830** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 903, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palmer moved the adoption of Committee Amendment No. 1 to **HB 903**. Agreed.

Representative Palmer moved that **HB 903**, as amended, be passed.

On the roll call the vote was: **Yeas 86**, **Nays 1**. (See March 14, 2000 roll call on **HB 903** - Appendix.)

HB 903, as amended, was passed and the title agreed to.

Representative Palmer moved that the vote by which **HB 903**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 938, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved the adoption of Committee Amendment No. 1 to **HB 938**. Agreed.

Representative Horlander moved that **HB 938**, as amended, be passed.

On the roll call the vote was: **Yeas 80, Nays 7**. (See March 14, 2000 roll call on **HB 938** - Appendix.)

HB 938, as amended, was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 938**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1000, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of Committee Amendment No. 1 to **HB 1000**. Agreed.

Representative Hoffman moved that **HB 1000**, as amended, be passed.

On the roll call the vote was: **Yeas 45, Nays 39**. (See March 14, 2000 roll call on **HB 1000** - Appendix.)

HB 1000, as amended, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 1000**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 102, HB 271, HB 612,** with Committee Amendment attached thereto, **HB 704,** with Committee Amendment attached thereto, **HB 807,** and **HJR 129** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 102, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services, ***the Office of the General Counsel,*** principal assistants and other personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;

(b) Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;

(c) Office of Taxpayer Ombudsman. The Office of Taxpayer Ombudsman shall be headed by a taxpayer ombudsman as established by KRS 131.051(1). The functions and duties of the office shall consist of those established by KRS 131.071;

(d) ***The Office of General Counsel shall be headed by an executive director. The Office of General Counsel shall provide legal advice to all units of the Cabinet.***

(e) Department of Law. The Department of Law shall be headed by a commissioner. The functions and duties of the department shall include establishing Revenue Cabinet tax policies, providing information to the public, conducting tax research, collecting delinquent taxes, conducting conferences, administering taxpayer protests, issuing final rulings, administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation, and representing the cabinet in legal and administrative actions. The Department of Law shall consist of the divisions of legal services, protest resolution, tax policy, collections, and research;

(f)[~~(e)~~] Department of Property Valuation. The Department of Property Valuation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering tangible and intangible personal property taxes, and collecting delinquent taxes. The Department of Property Valuation shall consist of the Divisions of Local Valuation, State Valuation, and Technical Support;

(g)~~[(f)]~~ Department of Tax Administration. The Department of Tax Administration shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, conducting audits, reviewing audits, rendering taxpayer assistance, and collecting delinquent taxes. The Department of Tax Administration shall consist of the Divisions of Field Operations, Revenue Operations, and Compliance and Taxpayer Assistance; and

(h)~~[(g)]~~ Department of Information Technology. The Department of Information Technology shall be headed by a commissioner. The functions and duties of the department shall include the development and maintenance of technology and information management systems in support of all units of the cabinet. The Department of Information Technology shall consist of the Division of Systems Planning and Development and the Division of Technology Infrastructure Support.

(2) The functions and duties of the cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the cabinet, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) Except as provided in KRS 131.190(4), the cabinet shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

Section 2. The General Assembly confirms Executive Order 99-320, dated March 10, 1999, to the extent that it is not otherwise confirmed by this Act.

HB 271, AN ACT relating to motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) A county clerk or other officer shall not register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12)(a) for new vehicles, and KRS 138.450(12)(c) or (d) for used cars. The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the Revenue Cabinet may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) ***If a purchaser returns a motor vehicle to the seller within sixty (60) days of the motor vehicle's purchase and the title to***

the motor vehicle is properly transferred back to the seller, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle[~~Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer~~].

(9) ***If a purchaser returns a motor vehicle to the seller because of malfunction or defect within ninety (90) days of the motor vehicle's purchase and the title to the motor vehicle is properly transferred back to the seller, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle***[~~When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement~~].

(10) ***If a purchaser returns a motor vehicle to the seller as a result of formal arbitration, litigation, or a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, and the title to the motor vehicle is properly transferred back to the seller, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle***[~~Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. A person shall not be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced~~].

(11) When a refund of the usage tax has been issued upon the return of a new motor vehicle under the provisions of subsection (8), (9), or (10) of this section, the vehicle shall be considered a used vehicle under KRS 138.450(11) when resold.

Section 2. The provisions of this Act shall apply to motor vehicles returned on or after the effective date of this Act.

HB 612, AN ACT relating to the Daniel Boone Parkway.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall remove all tolls from the Daniel Boone Parkway within thirty (30) days of the effective date of this Act.

Section 2. The Transportation Cabinet shall not terminate employees who are currently assigned to collect tolls on the Daniel Boone Parkway solely because of the tolls being removed, but shall reassign these employees to the district highway offices for the counties in which the parkway is located.

The Committee Amendment No. 1 to **HB 612** is as follows:

On page 1, line 2, by removing the words "within thirty (30) days of the effective date of this Act" and inserting the following words "before June 30, 2002".

HB 704, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Buses that are used exclusively for charter or tour services by an owner issued a charter bus certificate under KRS 281.637 shall be exempt from the ad valorem tax for state, city, county, school, or other taxing district purposes.

Section 2. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, ***except for property***[~~unless~~] exempted by the Constitution ***or personal property exempted by statute***, shall be as follows:

  (a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowl to each family shall be exempt from taxation for any purpose.

  (b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise canceled or revoked.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of financial institutions provided in KRS 136.505; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

Section 3. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, trailers, tractors, semitrailers, and buses***, except buses exempt under Section 1 of this Act,*** of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the Revenue Cabinet for purposes of taxation as of January 1 each year.

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.

Section 4. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, trailers, semitrailers, and buses***, except buses exempt under Section 1 of this Act,*** whose route or system is partly within this state and partly within another state or states, shall on forms provided by the Revenue Cabinet provide the cabinet with a detailed description of all its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value.

Section 5. KRS 136.1877 is amended to read as follows:

(1) The Revenue Cabinet shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, ***except buses exempt under Section 1 of this Act,*** notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the cabinet in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the cabinet's notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the Revenue Cabinet.

(4) The Revenue Cabinet shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by

a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the Revenue Cabinet shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Revenue Cabinet by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

Section 6. The provisions of this Act shall apply for property assessed on or after January 1, 2000.

The Committee Amendment No. 1 to **HB 704** is as follows:

On page 1, line 3, after "***Buses***" by inserting "***properly titled in a foreign jurisdiction, which are subject to apportionment registration, that are used exclusively for charter or tour services as defined in Section 6 of this Act***" and by deleting the remainder of the line in its entirety; and

On page 1, line 4 by deleting "***charter bus certificate under KRS 281.637***"; and

On page 4, after line 20 but before line 21 by inserting the following:

"Section 6. KRS 136.010 is amended to read as follows:

As used in this chapter, except for KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Real property" includes all lands within this state and improvements thereon.

(2) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(3) "Tax exempt United States obligations" shall include all obligations of the United States exempt from taxation under 31 USC Section 3124(a) or exempt under the United States Constitution or any federal statute including the obligations of any instrumentality or agency of the United States which are exempt from state or local taxation under the United States Constitution or any statute of the United States.

(4) "Out-of-state business property" means all real and personal property having a taxable situs outside this state owned by a corporation for use in the active conduct of a trade or business.

(5) "Charter services" means an irregular route to transport a group of persons who, under a contract, have acquired the exclusive use of a motor vehicle to travel together as a group to a specified destination for a particular itinerary, either agreed upon in advance or modified by the charter group after having left the place of origin, and operating under a certificate or permit issued by the United States Department of Transportation.

(6) "Tour service" means a tour operator that through individual tour packages furnishes some other services, such as accommodations, meals or tickets to an event or attraction, in addition to the transportation service, as part of the package."; and by renumbering subsequent sections to conform.

HB 807, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue.

(2) "Cabinet" means the Revenue Cabinet.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges ***imposed by this chapter*** against the delinquent taxpayer at any given time.

(7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.

(8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 2. KRS 134.450 is amended to read as follows:

(1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the

same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars ($200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the Revenue Cabinet to collect delinquent taxes. If the county attorney has not contracted with the Revenue Cabinet to collect delinquent taxes, the Revenue Cabinet shall collect all amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the Revenue Cabinet. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

(4) The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.

(5) The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.

Section 3. KRS 134.460 is amended to read as follows:

(1) Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum ***simple interest. A fraction of a month is counted as an entire month***.

(2) Certificates of delinquency shall be prima facie evidence that:

(a) The property represented by the certificate was subject to taxes levied thereon, and was assessed as required by law.

(b) The tax bill was valid and correct in all respects.

(c) The taxes were not paid at any time before the issuance of the certificate.

Section 4. KRS 134.480 is amended to read as follows:

(1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district***, the assignee shall mark paid in full on*** the certified copy of the certificate ***and*** shall ***surrender the certified copy of the certificate of delinquency***[~~be surrendered~~] to the person making payment, and if he is the person primarily liable on the certificate he may ***file it with the county clerk and***[~~, by exhibiting it to the county clerk,~~] have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the Revenue Cabinet may require. ***The clerk shall mark the certificate of delinquency paid in full.*** Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. ***The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency.*** Anyone other than the person primarily liable who pays a certificate or purchases it from an

owner other than the state, county, and taxing district may, by paying a fee of fifty cents ($0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents ($0.50) to the clerk for entering such change on the certificate.

(2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the Revenue Cabinet, the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the Revenue Cabinet for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.

(3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents ($0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

(4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.

(5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 5. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum ***simple interest*** from the date the certificate of delinquency is issued. ***A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS 134.430, the clerk's add-on fee provided in Section 4 of this Act, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation.*** All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

HJR 129, A JOINT RESOLUTION creating the Task Force on Bridging the Technology Gap and making an appropriation therefor.

WHEREAS, the Internet is a nascent, rapidly diffusing technology that promises to become the economic underpinning for all successful countries in the new global economy; and

WHEREAS, the dramatic growth of electronic commerce, the development of information technology industries, and online educational opportunities are changing the way Kentuckians work, communicate, purchase goods, and obtain information and education; and

WHEREAS, as computers become the conduit through which society accesses information and services, and computer literacy becomes a baseline job skill, it is important to ensure that all Kentuckians have access to computers and the Internet; and

WHEREAS, although Internet use has soared over the last year, a number of studies have revealed that the digital divide--disparities in access to telephones, personal computers, and the Internet across certain demographic groups--is widening significantly; and

WHEREAS, a 1999 study by the federal government's National Telecommunications and Information Administration (NTIA) shows that the levels of access to computers and the Internet differ substantially according to income, education level, race, household type, and geography; and

WHEREAS, the NTIA study shows a growing gap between the technology "haves and have nots," citing such examples as: (1) Those with a college degree are more than eight times as likely to have a computer at home, and nearly sixteen times as likely to have home Internet access, as those with an elementary school education, (2) A high-income household in an urban area is more than twenty times as likely as a rural, low-income household to have Internet access, (3) A child in a low-income White family is three times as likely to have Internet access as a child in a comparable African-American family, and (4) A child in a dual-parent White household is nearly twice as likely to have Internet access as a child in a White single-parent household, while a child in a dual-parent African-American family is almost four times as likely to have access as a child in a single-parent African-American household; and

WHEREAS, access to computers and the Internet and the ability to use this technology effectively are becoming increasingly important for Kentuckians' full participation in America's economic, governmental, and social life; and

WHEREAS, bridging the gap between the technology "haves" and "have nots" requires the combined efforts of government, business, and nonprofit organizations;

WHEREAS,

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby created a Task Force on Bridging the Technology Gap as a subgroup of the Kentucky Information Technology Advisory Council within the Governor's Office for Technology. The task force shall study the current and widening digital divide in the Commonwealth, develop and implement a plan to bridge the gap, and establish two (2) pilot projects.

Section 2. The membership of the task force shall consist of:

(1) The following members of the Kentucky Information Technology Advisory Council:

(a) The Chief Information Officer of the Commonwealth or her designee;

(b) The State Librarian or his designee;

(c) The one (1) representative from the public universities appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) The two (2) representatives of local government appointed by the Governor;

(e) The chair of the Public Service Commission or a designee;

(f) The two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(g) The representative from the public schools system appointed by the Governor;

(h) The representative from the Chamber of Commerce; and

(2) The following additional members:

(a) One (1) member representing state university Departments of Agriculture appointed by the Governor from a list of three (3) names submitted by the President of the Council on Postsecondary Education;

(b) One (1) member representing the state community and technical colleges appointed by the Governor from a list of three names submitted by the President of the Kentucky Community and Technical College System;

(c) One (1) member representing the Department of Education who has experience and technical expertise in providing access to and use of computers and the Internet in the public schools;

(d) One (1) member representing the Kentucky Association of Counties appointed by the Governor;

(e) One (1) member representing the Kentucky League of Cities appointed by the Governor;

(f) One (1) member representing local libraries appointed by the Governor;

(g) Two (2) representatives from business and industry, appointed by the Governor, who demonstrate an interest in efforts to provide access to computers and the Internet, including the development of public-private partnerships;

(h) One (1) member representing private, nonprofit charitable organizations with an expressed interest in providing access to computers and the Internet for technology have nots;

(i) The Director of the Long-Term Policy Research Center or his designee;

(j) One (1) member of the House of Representatives appointed by the Speaker, to serve in an advisory capacity to the commission; and

(k) One member of the Senate appointed by the President of the Senate, to serve in an advisory capacity to the commission.

Section 3. The Chief Information Officer or her designee shall serve as chair. The Governor's Office for Technology shall provide necessary staff and administrative assistance. Members of the task force shall receive no compensation except that those members required by their task force duties to travel to Frankfort shall receive reimbursement for their actual and necessary expenses. Appointed members of the task force shall serve for a term of two (2) years.

Section 4. The task force shall:

(1) Review the current status of the digital divide in the Commonwealth with special emphasis on the situation for

Kentuckians, in both urban and rural areas, who have low income and low education;

(2) Assess what is needed throughout the state to provide access to computers and the Internet for the technology have nots, including such ingredients as infrastructure, high-speed access, and the training needed to assist them;

(3) Develop and implement a five (5) year plan for closing the technology gap between the haves and have nots that includes but is not limited to:

(a) Identification and implementation of existing federal and private nonprofit programs and funding that would effect the goals of the task force;

(b) Creation of partnerships between government, industry, and nonprofit organizations that would assist in narrowing the digital divide in the Commonwealth; and

(c) Development of criteria for and implementation of at least two (2) pilot programs to address improving access to computers and the Internet. At least one (1) pilot program shall address access from a rural area and at least one (1) pilot program shall address access from an urban area;

(6) Promote competition and broadened access to computers and the Internet;

(7) Promote expanding access to computer and the Internet through the expansion of community access centers, such as schools, libraries, and other public facilities;

(8) Promote awareness of the opportunities available to the citizens of the Commonwealth through access to computers and the Internet; and

(9) Issue a report to the Governor and the Legislative Research Commission by September 1, 2001, and September 1, 2004.

Section 5. The task force shall expire upon the date of sine die of the 2004 General Assembly unless reestablished by the General Assembly.

Section 6. There is hereby appropriated from the general fund the amount of two hundred fifty thousand dollars ($250,000) for fiscal year 2000-2001 to the Governor's Office for Technology for the purpose of accomplishing the mission of the task force. Notwithstanding KRS 45.229, any remaining appropriation at the end of fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal year 2001-2002.

Section 7. In the event that the Governor's reorganization Executive Order 99-1359, dated October 6, 1999, creating the Governor's Office for Technology and the Kentucky Information Technology Advisory Council, is not confirmed by the 2000 General Assembly, references in Sections 1, 2, and 6 of this Act to the Governor's Office for Technology and the Kentucky Information Technology Advisory Council shall be deleted, and in lieu thereof, in Section 1, the Task Force on Bridging the Technology Gap shall be attached to the Chief Information Officer for the Commonwealth; in Section 2, the membership of the Task Force shall consist of the total listed persons named in Section 2 of this Act; and in Section 6, the appropriation shall be made to the Chief Information Officer for the Commonwealth for the purpose of accomplishing the mission of the task force.

The Committee on Appropriations and Revenue reported **HB 159, HB 178,** with Committee Substitute attached thereto, **HB 182, HB 202,** with Committee Substitute attached thereto, **HB 278,** with Committee Amendments attached thereto, **HB 305,** with Committee Substitutes attached thereto, **HB 421, HB 563,** with Committee Substitute attached thereto, **HB 564, HB 588,** with Committee Amendment attached thereto, **HB 617, HB 660, HB 792,** with Committee Substitute attached thereto, and **HB 892,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 278** is as follows:

On page 3, line 21, after "Section 6." by inserting the following:

"Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of this Act takes effect at the beginning of the fiscal year, an emergency is declared to exist and this Act takes effect July 1, 2000." and by deleting the remainder of the line and lines 22 and 23 in their entirety.

The Committee Amendment No. 2 Title to **HB 278** is as follows:

By amending the title to read as follows: "AN ACT relating to military burial honors, and declaring an emergency."

The Committee Substitute No. 2 to **HB 305** is as follows:

HB 305, AN ACT relating to the provision of health care services in schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures, or the provision of services by a certified athletic trainer who is acting within the scope of practice permitted by his or her certification; and

(2) "School employee" means any employee of the public schools of this Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

If health services are provided in a school setting, they shall be provided, within the health care professional's current scope of practice, in the school setting by any of the following, subject to school staffing requirements and protocols established under Section 3 of this Act:

(1) A physician who is licensed under the provisions of KRS Chapter 311;

(2) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314;

(3) A school employee who is:

(a) Delegated the responsibility to perform the service by a physician, registered nurse, or advanced registered nurse practitioner;

(b) Trained by the delegating physician or delegating nurse for the specific health service for the specific recipient, if that health service is one that could be performed and delegated by the physician or nurse within the physician's or nurse's current scope of practice; and

(c) Approved in writing by the delegating physician or delegating nurse. This approval shall state that the employee possesses sufficient training and skills to safely and effectively perform the health service. The school employee also shall sign the approval form and thus acknowledge receipt of training;

(4) An occupational therapist who is licensed under the provisions of KRS Chapter 319A;

(5) A physical therapist who is licensed under the provisions of KRS Chapter 327; or

(6) Any other health professional who is licensed or certified under the provisions of the Kentucky Revised Statutes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Education and the Cabinet for Health Services shall collaborate and develop standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include, but not be limited to, the training of designated nonmedical school personnel, the delegation of nursing functions, consistent with administrative regulations promulgated by the Kentucky Board of Nursing, and appropriate documentation relating to the protocols.

(2) A copy of the protocols and guidelines developed under subsection (1) of this section shall be made available to each school in the Commonwealth and shall be maintained by each school's library.

(3) A school employee shall provide a health service if the employee:

(a) Has been delegated the responsibility to perform the health service by a physician, registered nurse, or advanced registered nurse practitioner;

(b) Has received training for the health service by a physician or nurse, if the service is within that physician's or nurse's current scope of practice; and

(c) Has been approved in writing by the delegating physician or delegating nurse, as required in subsection (3)(c) of Section 2 of this Act.

(4) If an employee has not been delegated the responsibility to perform a health service, trained to perform a health service, and approved to perform a health service, as required in subsection (3) of Section 2 of this Act, and in order to prevent a health service loss from affecting the student's attendance or program participation, the school district shall immediately make any necessary arrangement for the provision of the health service to the student. The school district shall continue with this arrangement until appropriate school personnel are adequately trained to provide the health service.

(5) If a school employee does not provide a health service because there has been no delegation, training, or approval as required under subsection (3) of this section, there shall be no cause for disciplinary action from school administrators, the state or local boards of education, or any licensing or certification board or agency as a result of a refusal under subsection (3) of this section.

(6) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

(7) If a school employee is designated to provide health services under this section or Section 2 of this Act, all liability for the provision of those services shall be the responsibility of the employer.

The Committee Substitute No. 1 to **HB 792** is as follows:

HB 792, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.445 is amended to read as follows:

The following performance standards shall be applicable to steep-slope strip mining and shall be in addition to those general performance standards required by KRS 350.405 to 350.435; provided, however, that the provisions of this section shall not apply to those situations in which a permittee or operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where a permittee or operator is in compliance with the provisions of KRS 350.450(2):

(1) The permittee or operator shall insure that when performing strip mining on steep slopes, debris, abandoned or disabled equipment, spoil material, or waste mineral matter not be placed on the downslope below the bench or mining cut; provided, that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of KRS 350.410 or 350.445(2) shall be permanently stored pursuant to KRS 350.440.

(2) The permittee or operator shall complete backfilling with spoil material and shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The permittee or operator may not disturb land above the top of the highwall unless the cabinet finds that the disturbance will facilitate compliance with the environmental protection standards of this subsection; provided, however, that the land disturbed above the highwall shall be limited to that amount necessary to facilitate compliance. ***The land above the highwall may be disturbed for construction of a permanent road only where the applicant affirmatively demonstrates, and the cabinet makes a detailed and written determination, that the proposed disturbance facilitates compliance with this chapter and provided that the land disturbed shall be limited to that amount necessary to facilitate such compliance. The cabinet shall make this determination upon a demonstration by the permittee that:***

(a) The permittee will completely eliminate the production highwall and backfill the mined areas to approximate original contour with no road remaining on the bench;

(b) The road will be placed on a solid base rather than on fill material and drainage will be diverted from the mining area;

(c) The road will comply with all applicable design criteria, including a drainage plan for avoiding seepage or uncontrolled discharge of water into the backfilled areas;

(d) The spoil calculations and spoil disposal plans include the road cut material and the extent, if any, that road cut material will be used to eliminate a production highwall;

(e) The road will connect to another road or roads and is necessary in order to support the approved postmining land uses;

(f) Where practical and feasible, an undisturbed barrier will be left between the production highwall and the road itself. When an undisturbed barrier is not feasible, witness monuments will be left at a minimum of two (2) locations above the production highwall;

(g) The road will be constructed to a size and design appropriate to support coal mining activities and the proposed post-mining land use;

(h) The proposed mine plan and sequencing of the road construction in relation to the mining activity will minimize placement of spoil material into valley or hollow fills and will maximize permanent retention of mined spoil on the mine bench;

(i) There will be no coal removal from the construction of the permanent road except for incidental nonmerchantable coal that is disposed of in an approved manner; and

(j) All other performance standards of the chapter are met.

(4) For the purposes of this section, the term "steep slope" is any slope above twenty (20) degrees or such lesser slope as may be defined by the cabinet, by regulation, after consideration of soil, climate, and other characteristics of the region.

The Committee Amendment No. 1 to **HB 892** is as follows:

On page 4, line 14, after "***penetrate***" insert "***the coal a minimum of thirty (30) feet***";

On page 4, line 20, after "***allowed***" insert "***for new permitted production after July 1, 2000,***";

On page 4, lines 23 to 27, delete entirely;

On page 5, line 1, delete "***2***" and insert "***1***" in lieu thereof;

On page 5, line 2, delete "***twenty-eight (28)***" and insert "***twenty-seven (27)***" in lieu thereof, and delete "***thirty-two (32)***" and insert "***thirty (30)***" in lieu thereof;

On page 5, line 3, delete entirely;

On page 5, line 4, delete "***and one-half percent (4.5%) or greater***";

On page 5, line 5, delete "***3***" and insert "***2***" in lieu thereof;

On page 5, line 6, delete "***twenty-eight (28)***" and insert "***twenty-seven (27)***" in lieu thereof;

On page 5, line 10, after "***inches***" delete "***or***";

On page 5, lines 11 to 12, delete entirely;

On page 5, line 13, delete "***half percent (4.5%)***";

On page 5, line 15, delete "***twenty-eight (28)***" and insert "***twenty-seven (27)***" in lieu thereof;

On page 5, line 15, delete "***or that has an***";

On page 5, line 16, delete entirely;

On page 5, line 17, delete "***percent (4.5%) or greater***";

On page 5, line 19, delete "***twenty-eight (28)***" and insert "***twenty-seven (27)***" in lieu thereof;

On page 5, line 20, through page 6, line 4, delete entirely;

On page 6, line 5, delete "***and mining ratio***"; and

On page 6, lines 6 to 7, delete "***or mining ratio***".

The Committee on State Government reported **HB 878, HR 140, SB 207,** with Committee Substitute attached thereto, and **SCR 61** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 878, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service***~~[services]~~ because of ***any of the following:***

(a) Religious opinions or affiliations;

(b) Ethnic origins;

(c) Sex;

(d) Age, if over forty (40);

(e) Disability;

(f) Political activities permitted under this section; or

(g) Refusal to engage in any prohibited activity as described in this section~~[his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age]~~.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) ***An employee in the classified service may:***

(a) Be a candidate for public office in a nonpartisan election;

(b) Register to vote and vote;

(c) Assist in voter registration drives;

(d) Express opinions about candidates and issues;

(e) Contribute money to a political campaign;

(f) Attend political fundraising functions;

(g) Campaign for or against referendum questions, constitutional amendments, or municipal ordinances; and

(h) Campaign for or against candidates in partisan elections~~[No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in~~

~~soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service]~~.

(4) No employee in the classified service or member of the board or its executive director shall***:***

(a) Use official authority or influence to interfere with an election;

(b) Solicit or discourage political activity of anyone doing business with that individual's respective agency;

(c) Solicit or receive any political contributions;

(d) Be a candidate for public office in a partisan election;

(e) Wear political buttons while on duty;

(f) Engage in any activity as described in subsection (3) of this section while:

1. On duty;

2. In a government office;

3. Wearing an official uniform; or

4. Using a government vehicle; or

(g) Take part in the management of any political party or in the management of a political campaign.

(5) No person shall:

(a) Request, demand, levy, solicit, or require a contribution, payment, assessment, subscription, service, or activity from an employee in the classified service for any of the activities specified in subsection (3) of this section;

(b) Threaten or cause an employee in the classified service to be threatened, in any manner, with the loss of employment, denial of promotion, demotion, reprisal, or any other action for activities permitted by subsection (3) of this section, or because the employee supports, or fails or refuses to support a political candidate, party, issue, or campaign, or because the employee takes part or refuses to take part in activities permitted by subsection (3) of this section; and

(c) Use his or her authority or influence to commit, encourage, request, demand, or solicit an act prohibited by the provisions of this section~~[be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis]~~.

Section 2. KRS 151B.090 is amended to read as follows:

(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of ***any of the following:***

(a) Religious opinions or affiliations;

(b) Ethnic origins;

(c) Sex;

(d) Age, if over forty (40);

(e) Disability;

(f) Political activities permitted under this section; or

(g) Refusal to engage in any prohibited activity as described in this section~~[political or religious opinions or affiliations, ethnic origin, sex, disability, or age]~~.

(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.

(3) ***Any certified or equivalent employee may:***

(a) Be a candidate for public office in a nonpartisan election;

(b) Register to vote and vote;

(c) Assist in voter registration drives;

(d) Express opinions about candidates and issues;

(e) Contribute money to a political campaign;

(f) Attend political fundraising functions;

(g) Campaign for or against referendum questions, constitutional amendments, or municipal ordinances; and

(h) Campaign for or against candidates in partisan elections[~~No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee~~].

(4) No certified ***employee,***[~~or~~] equivalent employee***, member of the board, or its executive director*** shall***:***

(a) Use official authority or influence to interfere with an election;

(b) Solicit or discourage political activity of anyone doing business with that individual's respective agency;

(c) Solicit or receive any political contributions;

(d) Be a candidate for public office in a partisan election;

(e) Wear political buttons while on duty;

(f) Engage in political activities while:

1. On duty;

2. In a government office;

3. Wearing an official uniform; or

4. Using a government vehicle; or

(g) Take part in the management of any political party or in the management of a political campaign.

(5) No person shall:

(a) Request, demand, levy, solicit, or require a contribution, payment, assessment, subscription, service, or activity from an employee in the classified service or equivalent employee for any of the activities specified in subsection (3) of this section;

(b) Threaten or cause an employee in the classified service or equivalent employee to be threatened, in any manner, with the loss of employment, denial of promotion, demotion, reprisal, or any other action for activities permitted by subsection (3) of this section, or because the employee supports, or fails or refuses to support a political candidate, party, issue, or campaign, or because the employee takes part or refuses to take part in activities permitted by subsection (3) of this section; and

(c) Use his authority or influence to commit, encourage, request, demand, or solicit an act prohibited by the provisions of this section.

(6) Any person who willfully violates any provision in this section shall be guilty of a Class B misdemeanor.

(7) Any person, other than an employee or officer, who is convicted of a violation of this section shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.

(8) Any officer or employee in the classified service who is convicted of a violation of this section shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of this section shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail[~~ be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis~~].

Section 3. KRS 18A.990 is amended to read as follows:

(1) Any person who willfully violates any provision of KRS 18A.005 to 18A.200 or of the ***administrative regulations promulgated thereunder***[~~rules~~] shall be guilty of a ***Class B*** misdemeanor[~~, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

(2) Any person***, other than an officer or employee,*** who is convicted of a ***violation of the provisions of***[~~misdemeanor under~~] KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.

(3) Any officer or employee ***in***[~~of~~] the classified service who ***is convicted of a violation***[~~willfully violates any~~] of the provisions of KRS 18A.140 shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

HR 140, A RESOLUTION urging the Governor to support the recruitment of a National Basketball Association franchise to Kentucky by supporting construction of a new sports arena.

WHEREAS, Kentuckians have not seen a professional basketball team in the Commonwealth since the Kentucky Colonels and the demise of the American Basketball Association in 1976; and

WHEREAS, Kentuckians are known nationwide for their "basketball mania" and the Commonwealth is recognized as a sports state with enthusiastic spectators and superb athletes; and

WHEREAS, the National Basketball Association franchises have fared well in smaller-sized markets like Louisville; and

WHEREAS, the Commonwealth has successfully produced sporting events, including the Men's Professional Golf Association Championship at Valhalla and the Breeders' Cup at Churchill Downs; and

WHEREAS, the benefits of a downtown arena to accommodate a professional team would attract 1.6 million people to the area yearly, advancing tourism and economic development in the region; and

WHEREAS, the entire state would benefit by an increase in entertainment dollars spent by out-of-state tourists, not only through attendance at professional basketball games, but also through dining at area restaurants, staying in Kentucky hotels and motels, and visiting the Louisville Slugger Museum, the Muhammad Ali Center, Kentucky Center for the Arts, and other Kentucky attractions and shopping opportunities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges the Governor to support the effort to attract a National Basketball Association franchise by offering a financial incentive package that, along with sponsorship from corporate citizens, capital investment from corporate investors, involvement by enthusiastic citizens, and support from governments in the greater Louisville area, shall bring about a new sports arena seating more than 20,000 fans.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Honorable Governor Paul E. Patton, 700 Capitol Avenue, Frankfort, Kentucky 40601.

SB 207, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection (6) of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:

(a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.

(3) The notice of intent shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The number and the specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A ***detailed*** summary of the administrative regulation, including***:***

a. If the proposed administrative regulation is a new administrative regulation, a detailed summary

of the requirements that are under consideration by the administrative body; and

b. ***If the proposed administrative regulation is an amended administrative regulation, a detailed summary of*** how ***the***[~~an~~] existing administrative regulation will be amended by the proposed administrative regulation[~~, if applicable~~];

3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and ***the***[~~, if~~] applicable[~~, the~~] statement required by KRS 13A.245(2)(b);

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented***; and***

(g) ***A request that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation, including:***

1. ***The increase or decrease of the cost of doing business;***

2. ***The increase or decrease in the cost of living;***

3. ***The value of the expected benefits;***

4. ***The method of tiering that the administrative body could apply to reduce the impact on an entity that does not contribute significantly to the problem that the proposed administrative regulation will address;***

5. ***The special problems faced by individuals and small businesses in complying with the administrative regulation;***

6. ***Alternative ways of dealing with the special problems; and***

7. ***Classes that will be disproportionately impacted.***

(4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation. ***This registration shall be valid for four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.***

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the Administrative Register.

(5) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.

(6) (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an administrative regulation ***is deficient because it***:

1. Is wrongfully promulgated;
2. Appears to be in conflict with an existing statute;
3. Appears to have no statutory authority for its promulgation;
4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
5. Fails to use tiering ***unless tiering is clearly inappropriate***[~~when tiering is applicable~~];
6. Is in excess of the administrative body's authority; or
7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 3. KRS 13A.032 is amended to read as follows:

A finding of ***deficiency made in accordance***[~~noncompliance~~] with KRS 13A.030(2)(a) made by a subcommittee shall establish a prima facie case of legislative intent ***and shall be competent evidence*** in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 4. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that[~~:~~

~~(a)~~] must be placed into effect immediately***:***

(a) Because there exists an imminent danger to the life, health, safety, or property of the citizens of the Commonwealth that could not have been foreseen during the three (3) month period immediately preceding the day on which an administrative body files the emergency administrative regulation;

(b) To [~~in order to:~~

~~1. Meet an imminent threat to public health, safety, or welfare; or~~

~~2.~~]prevent a loss of federal funds ***or federal approval of a program, if the administrative body establishes in writing and in detail:***

1. The reasons the deadline could not have been met by the promulgation of an ordinary administrative regulation; and

2. The fact that the necessity for an emergency administrative regulation was not a result of delay by the administrative body;

(c) To meet a deadline that has been established by state law for the promulgation of an administrative regulation, if the administrative body establishes, in writing and in detail:

1. The reasons the deadline could not have been met by the promulgation of an ordinary administrative regulation; and

2. The fact that the necessity for an emergency administrative regulation was not a result of delay by the administrative body; or

(d) To meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation, and information that must be received from a federal agency was not received in sufficient time to promulgate an ordinary administrative regulation.

(2) An emergency administrative regulation shall be:

(a) [~~; or~~

~~3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or~~

~~4. Protect human health and the environment; and~~

~~(b) 1. Is~~]Temporary in nature and[~~ will~~] expire as provided in this section; or

(b) [~~2. Is temporary in nature and will be~~]Replaced by an ordinary administrative regulation as provided in this section.

(3)[~~(2)~~]***Unless required by federal law, an emergency administrative regulation shall not:***

(a) ***Create or impose a fine, fee, or other charge; or***

(b) ***Increase an existing fine, fee, or other charge.***

(4) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(5)[~~(3)~~](a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the public comment period as provided by KRS 13A.270(1), or extends the time for filing a statement of consideration as provided by KRS 13A.280(3), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of KRS 13A.270(1) or 13A.280(3), as applicable.

(6)[~~(4)~~]An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously-filed emergency administrative regulation shall be promulgated.

(7)[~~(5)~~]When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(8)[~~(6)~~]Each emergency administrative regulation shall contain a ***detailed*** statement of:

(a) The ***precise*** nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor;[~~ and~~]

(e) ***When the administrative body became aware of the need for the emergency administrative regulation;***

(f) ***If applicable, when the administrative body received federal information necessary for the promulgation of the emergency administrative regulation; and***

(g) If applicable, the explanation required by subsection *(7)*[~~(5)~~] of this section.

(9)[~~(7)~~]An administrative body shall attach the:

(a) Statement of emergency required by subsection *(8)*[~~(6)~~] of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(10)[~~(8)~~] If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing pursuant to KRS 13A.270(1). The public hearing information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(11)[~~(9)~~] A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(12)[~~(10)~~] Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(13)[~~(11)~~] (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(14)[~~(12)~~] (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(15)[~~(13)~~] A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be revoked.

Section 5. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, ***shall***[~~must~~] be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ***shall***[~~may~~] use any number of tiers ***that***[~~they feel~~] will solve most ***efficiently and*** effectively the problem the administrative regulation addresses. A written statement ***shall***[~~must~~] be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;[~~ and~~]

(h) Reduce or modify fine schedules for noncompliance***; and***

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 6. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with twenty-three (23) lines to a page. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(Amendment)" or "(Amended After Hearing)," whichever is applicable. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)";

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and ***the***~~[, if]~~ applicable~~[, the]~~ statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(6) After the complete text of an administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270; and

(e) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) to (c) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 7. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) ***A brief narrative summary of:***

1. What the administrative regulation does;

2. The necessity of the administrative regulation;

3. How the administrative regulation conforms to the content of the authorizing statutes; and

4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;~~[The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and]~~

(b) ***If this is an amendment to an existing administrative regulation, a brief narrative summary of:***

1. How the amendment will change the existing administrative regulation;

2. The necessity of the amendment to the administrative regulation;

3. How the amendment conforms to the content of the authorizing statutes; and

4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;~~[The direct and indirect costs or savings, including, to the extent available from the public comments received, the:~~

~~1. Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented; and~~

~~2. Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and~~

~~3. Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second and subsequent years with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and]~~

(c) The ***type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;***~~[direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and]~~

(d) An assessment of ***how the group or groups referenced in paragraph (c) of this subsection will be impacted, including the costs of compliance, by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;***~~[any anticipated effect on state and local revenues; and]~~

(e) ***An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;***~~[The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and]~~

(f) ***The source of the funding to be used for the implementation and enforcement of the administrative regulation;***~~[To the extent available from the public comments received, the economic impact of the administrative regulation on the geographical area in which the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and]~~

(g) An assessment of ***whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing***~~[alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the]~~ administrative regulation; and

(h) ***A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees***~~[An assessment of the expected benefits of the administrative regulation; and~~

~~(i) A statement:~~

~~1. Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and~~

~~2. Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and~~

~~3. If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and~~

~~(j) A written statement identifying any statute, rule, regulation, or governmental policy which the administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict]~~.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 8. KRS 13A.245 is amended to read as follows:

(1) (a) When promulgating administrative regulations and amending existing administrative regulations in response to a federal mandate, an administrative body shall compare its proposed compliance standards with any minimum or uniform standards suggested or contained in the federal mandate.

(b) Such a comparison shall include, in detail, a written determination by the administrative body on whether the proposed state administrative regulation will impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate.

(c) If the administrative body determines that the proposed state administrative regulation imposes additional requirements or responsibilities on the regulated entities than is required by the federal mandate, the administrative body shall include in its comparison analysis a written statement justifying the imposition of stricter standards, requirements, or responsibilities.

(2) (a) Except as provided by paragraph (b) of this subsection, an administrative regulation shall conform to a federal law or regulation governing a subject matter if an administrative body is:

1. Not required by federal law or regulation to promulgate an administrative regulation to comply with a federal law or regulation governing the subject matter; and

2. Required or authorized by state law to promulgate an administrative regulation governing the subject matter.

(b) ~~[If the administrative regulation is more stringent than or otherwise differs from the federal law or regulation governing the subject matter, the administrative body shall state in detail in]~~The "NECESSITY, FUNCTION, AND CONFORMITY" paragraph of ***an***~~[the]~~ administrative regulation ***shall include the information required by the applicable subparagraph of this paragraph as follows:***

1. If the administrative regulation is required or authorized by state law and is not required by federal law or regulation, a statement that "This administrative regulation has been promulgated because it is required or authorized by state law (include the specific citation) and is not required by federal law or regulation.".

2. If the administrative regulation is required or authorized by federal law or regulation, a statement that "This administrative regulation has been promulgated because it is required or authorized by federal law or regulation (include the specific citation).".

a. If an administrative regulation required or authorized by federal law or regulation is not more stringent than the federal law or regulation, an additional statement that "This administrative regulation is not more stringent than the minimum requirements contained in federal law or regulation (include specific citation).".

b. If an administrative regulation required or authorized by federal law or regulation is more stringent than the federal law or regulation, an additional statement that "This administrative regulation is more stringent than the minimum requirements contained in federal law or regulation (include specific citation)" and a summary of the manner in which it is more stringent than or otherwise differs from the federal law or regulation, and the reasons therefor.

Section 9. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly-scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly-scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has

reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly-scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the matter is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) An administrative body shall comply with subsection (4) of this section.

(9) ***(a)*** The subcommittee shall***:***

1. ~~[be empowered to]~~Make ***a determination, as applicable, specified by subsection (2) of Section 2 of this Act; or***

2. Approve the administrative regulation that has been assigned to it for review.

(b) The subcommittee may~~[the same nonbinding determinations and to]~~ exercise the same authority as the Administrative Regulation Review Subcommittee as provided in KRS 13A.030(2) and (3).

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly-scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

The Committee Substitute No. 1 to **SB 207** is as follows:

SB 207, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection (6) of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:

(a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.

(3) The notice of intent shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The number and the specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;
2. A summary of the administrative regulation, including***:***
   - ***a. If the proposed administrative regulation is a new administrative regulation, a summary of the requirements that are under consideration by the administrative body; and***
   - ***b. If the proposed administrative regulation is an amended administrative regulation, a summary of*** how ***the***[~~an~~] existing administrative regulation will be amended by the proposed administrative regulation[~~, if applicable~~];
3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and ***the***[~~, if~~] applicable[~~, the~~] statement required by KRS 13A.245(2)(b);
4. A statement of the benefits expected from the administrative regulation; and
5. How the administrative regulation will be implemented***; and***

(g) A request that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation, including:

1. The increase or decrease of the cost of doing business;

2. The increase or decrease in the cost of living;

3. The value of the expected benefits;

4. The method of tiering that the administrative body could apply to reduce the impact on an entity that does not contribute significantly to the problem that the proposed administrative regulation will address;

5. The special problems faced by individuals and small businesses in complying with the administrative regulation;

6. Alternative ways of dealing with the special problems; and

7. Classes that will be disproportionately impacted.

(4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation. ***This registration shall be valid for four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.***

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;
2. On the date the notice is published in the Administrative Register.

(5) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.

(6) (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an administrative regulation ***is deficient because it***:

1. Is wrongfully promulgated;
2. Appears to be in conflict with an existing statute;
3. Appears to have no statutory authority for its promulgation;
4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
5. Fails to use tiering when tiering is applicable;
6. Is in excess of the administrative body's authority; or
7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 3. KRS 13A.032 is amended to read as follows:

A finding of ***deficiency made in accordance***[~~noncompliance~~] with KRS 13A.030(2)(a) made by a subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 4. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that[~~:~~

~~(a)~~] must be placed into effect immediately***:***

(a) Because there exists an imminent danger to public health, safety, welfare, or the property of the citizens of the Commonwealth that could not have been foreseen during the three (3) month period immediately preceding the day on which an administrative body files the emergency administrative regulation;

(b) To [~~in order to:~~

~~1. Meet an imminent threat to public health, safety, or welfare; or~~

~~2.~~]prevent a loss of federal ***or state*** funds ***or federal approval of a program or to institute a change initiated by the federal government;***

(c) To meet a deadline that has been established by state law or federal law or regulations for the promulgation of an administrative regulation; or

(d) To protect human health and the environment.

(2) An emergency administrative regulation shall be:

(a) [~~; or~~

~~3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or~~

~~4. Protect human health and the environment; and~~

~~(b) 1. Is~~]Temporary in nature and[~~ will~~] expire as provided in this section; or

(b) [~~2. Is temporary in nature and will be~~]Replaced by an ordinary administrative regulation as provided in this section.

(3)[~~(2)~~]***Unless required by federal law, an emergency administrative regulation shall not:***

(a) Create or impose a fine, fee, or other charge; or

(b) Increase an existing fine, fee, or other charge.

(4) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(5)[~~(3)~~](a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the public comment period as provided by KRS 13A.270(1), or extends the time for filing a statement of consideration as provided by KRS 13A.280(3), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of KRS 13A.270(1) or 13A.280(3), as applicable.

(6)[~~(4)~~]An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously-filed emergency administrative regulation shall be promulgated.

(7)[~~(5)~~]When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(8)[~~(6)~~]Each emergency administrative regulation shall contain a ***detailed*** statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(e) If applicable, the explanation required by subsection *(7)*[~~(5)~~] of this section.

(9)[~~(7)~~]An administrative body shall attach the:

(a) Statement of emergency required by subsection *(8)*[~~(6)~~] of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(10)[~~(8)~~] If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing pursuant to KRS 13A.270(1). The public hearing information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(11)[~~(9)~~] A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(12)[~~(10)~~] Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(13)[~~(11)~~] (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(14)[~~(12)~~] (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(15)[~~(13)~~] A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be revoked.

Section 5. KRS 13A.210 is amended to read as follows:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed

to address. The tiers, however, ***shall***[~~must~~] be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ***shall***[~~may~~] use any number of tiers ***that***[~~they feel~~] will solve most ***efficiently and*** effectively the problem the administrative regulation addresses. A written statement ***shall***[~~must~~] be submitted to the Legislative Research Commission explaining why tiering was or was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;

(b) Eliminate some requirements entirely;

(c) Simplify and reduce reporting and recordkeeping requirements;

(d) Provide exemptions from reporting and recordkeeping requirements;

(e) Reduce the frequency of inspections;

(f) Provide exemptions from inspections and other compliance activities;

(g) Delay compliance timetables;[~~ and~~]

(h) Reduce or modify fine schedules for noncompliance***; and***

(i) Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;

(b) Changes in the composition of the work force;

(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;

(d) Changes in market concentration and segmentation;

(e) Advances in technology; and

(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 6. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with twenty-three (23) lines to a page. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(Amendment)" or "(Amended After Hearing)," whichever is applicable. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)";

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and ***the***~~[, if]~~ applicable~~[, the]~~ statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(6) After the complete text of an administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270; and

(e) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) to (c) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 7. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) ***A brief narrative summary of:***

1. What the administrative regulation does;

2. The necessity of the administrative regulation;

3. How the administrative regulation conforms to the content of the authorizing statutes; and

4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;~~[The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and]~~

(b) ***If this is an amendment to an existing administrative regulation, a brief narrative summary of:***

1. How the amendment will change the existing administrative regulation;

2. The necessity of the amendment to the administrative regulation;

3. How the amendment conforms to the content of the authorizing statutes; and

4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;~~[The direct and indirect costs or savings, including, to the extent available from the public comments received, the:~~

~~1. Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented; and~~

~~2. Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and~~

~~3. Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second and subsequent years with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and]~~

(c) The ***type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;***~~[direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and]~~

(d) An assessment of ***how the group or groups referenced in paragraph (c) of this subsection will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;***~~[any anticipated effect on state and local revenues; and]~~

(e) ***An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;***~~[The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and]~~

(f) ***The source of the funding to be used for the implementation and enforcement of the administrative regulation;***~~[To the extent available from the public comments received, the economic impact of the administrative regulation on the geographical area in which the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and]~~

(g) An assessment of ***whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing***~~[alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the]~~ administrative regulation; and

(h) ***A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees***~~[An assessment of the expected benefits of the administrative regulation; and~~

~~(i) A statement:~~

~~1. Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and~~

~~2. Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and~~

~~3. If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and~~

~~(j) A written statement identifying any statute, rule, regulation, or governmental policy which the administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict]~~.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 8. KRS 13A.245 is amended to read as follows:

(1) (a) When promulgating administrative regulations and amending existing administrative regulations in response to a federal mandate, an administrative body shall compare its proposed compliance standards with any minimum or uniform standards suggested or contained in the federal mandate.

(b) Such a comparison shall include, in detail, a written determination by the administrative body on whether the proposed state administrative regulation will impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate.

(c) If the administrative body determines that the proposed state administrative regulation imposes additional requirements or responsibilities on the regulated entities than is required by the federal mandate, the administrative body shall include in its comparison analysis a written statement justifying the imposition of stricter standards, requirements, or responsibilities.

(2) (a) Except as provided by paragraph (b) of this subsection, an administrative regulation shall conform to a federal law or regulation governing a subject matter if an administrative body is:

1. Not required by federal law or regulation to promulgate an administrative regulation to comply with a federal law or regulation governing the subject matter; and

2. Required or authorized by state law to promulgate an administrative regulation governing the subject matter.

(b) ~~[If the administrative regulation is more stringent than or otherwise differs from the federal law or regulation governing the subject matter, the administrative body shall state in detail in]~~The "NECESSITY, FUNCTION, AND CONFORMITY" paragraph of ***an***~~[the]~~ administrative regulation ***shall include the information required by the applicable subparagraph of this paragraph as follows:***

1. If the administrative regulation is not required by federal law or regulation, a statement that "This administrative regulation is not required by federal law or regulation.".

2. If the administrative regulation is required or authorized by federal law or regulation, a statement that "This administrative regulation is required or authorized by federal law or regulation (include the specific citation).".

a. If an administrative regulation required or authorized by federal law or regulation is not more stringent than the federal law or regulation, an additional statement that "This administrative regulation is not more stringent than the minimum requirements contained in federal law or regulation (include specific citation).".

b. If an administrative regulation required or authorized by federal law or regulation is more stringent than the federal law or regulation, an additional statement that "This administrative regulation is more stringent than the minimum requirements contained in federal law or regulation (include specific citation)" and a summary of the manner in which it is more stringent than or otherwise differs from the federal law or regulation, and the reasons therefor.

Section 9. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly-scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly-scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly-scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the matter is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or

2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be

the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) An administrative body shall comply with subsection (4) of this section.

(9) The subcommittee ***may***~~[shall be empowered to make the same nonbinding determinations and to]~~ exercise the same authority ***granted under KRS Chapter 13A to***~~[as]~~ the Administrative Regulation Review Subcommittee~~[as provided in KRS 13A.030(2) and (3)]~~.

(10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly-scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

SCR 61, A CONCURRENT RESOLUTION recognizing the Catbird 500 Air Derby as the official Kentucky Air Derby.

WHEREAS, one of the top seven air races in the country is held annually in Kentucky, and we are proud to recognize the Kentucky Bluegrass 99s of the Women's International Pilot Association as the host of the Catbird 500 Air Derby and Safety Seminars, sponsored by United Parcel Service, American Airlines, Chevron, Kentucky Aviation Association, and private individuals; and

WHEREAS, all proceeds raised by the Catbird 500 Air Derby go to charity, and the 1999 Air Derby raised over $1,700 for the Marine Corps Toys for Tots, $100 for the Special Olympics and $100 for the Crusade for Children, and approximately 200 people attended the Safety Seminars and outside exhibits; and

WHEREAS, the Catbird 500 Air Derby is a contest of speed and proficiency; it grew from five racing teams at the onset to fifteen teams in the 1999 race, including teams from twelve states and Canada; the Air Derby's 500 flight miles included seven different airports in Kentucky, beginning and ending at Bowman Field in Louisville; and

WHEREAS, the next annual Catbird 500 Air Derby will be held on October 14, 2000, and it is fitting and proper for this honorable body to recognize this Kentucky Aviation Project;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The General Assembly is indeed proud and honored to recognize the Catbird 500 Air Derby as the official Kentucky Air Derby, and we wish to the Kentucky Bluegrass 99s of the Women's International Pilot Association success in all future endeavors.

Section 2. When the Senate adjourns this day, it does so in honor of the Catbird 500 Air Derby as the official Kentucky Air Derby.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Ms. Sylvia Sue Hall, Chairman, Kentucky Bluegrass 99s, 5001 Carpenter Drive, Crestwood, Kentucky 40014-2157.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (Continued)

HJR 141, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HJR 141**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HJR 141**. Agreed.

Representative Riner moved that **HJR 141**, by way of Committee Substitute as amended, be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HJR 141** - Appendix.)

HJR 141, by way of Committee Substitute as amended, was adopted.

Representative Riner moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **HJR 141**. Agreed; and the title was agreed to.

Representative Riner moved that the vote by which **HJR 141**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved that **HCR 147** be adopted.

On the roll call the vote was: **Yeas 82, Nays 10**. (See March 14, 2000 roll call on **HCR 147** - Appendix.)

HCR 147 was adopted.

Representative Hoffman moved that the vote by which **HCR 147** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 221, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute No. 2 to **HB 221**. Agreed.

Representative Feeley moved that **HB 221**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 14, 2000 roll call on **HB 221** - Appendix.)

HB 221, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 221**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 322, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 322**. Agreed.

Representative Wayne moved that **HB 322**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 14, 2000 roll call on **HB 322** - Appendix.)

HB 322, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 322**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 321**. Agreed.

Representative Wayne moved that **HB 321**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HB 321** - Appendix.)

HB 321, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 321**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 392, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 392**. Agreed.

Representative Wayne moved that **HB 392**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HB 392** - Appendix.)

HB 392, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 392**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 139, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to **HCR 139**. Agreed.

Representative Jenkins moved that **HCR 139**, as amended, be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 14, 2000 roll call on **HCR 139** - Appendix.)

HCR 139, as amended, was adopted.

Representative Jenkins moved that the vote by which **HCR 139**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 150 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HR 150** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 14, 2000 roll call on **HR 150** - Appendix.)

HR 150 was adopted.

Representative Westrom moved that the vote by which **HR 150** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 912, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 912**. Agreed.

Representative Haydon moved that **HB 912**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 42, Nays 42**. (See March 14, 2000 roll call on **HB 912** - Appendix.)

HB 912, by way of Committee Substitute, was defeated.

HB 439, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 439**. Agreed.

Representative Stumbo moved that **HB 439**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 14, 2000 roll call on **HB 439** - Appendix.)

HB 439, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 439**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 642, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of the Committee Substitute to **HB 642**. Agreed.

The Speaker Pro Tem assumed the Chair.

The Speaker resumed the Chair.

Representative J. Turner moved that **HB 642**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 14, 2000 roll call on **HB 642** - Appendix.)

HB 642, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 642**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Barrows moved that the rules be suspended to reconsider **HB 392** and place it back in the Orders of the Day for immediate action upon an amendment.

On the roll call the vote was: **Yeas 89, Nays 0**. (See March 14, 2000 roll call on the motion that the rules be suspended to reconsider **HB 392** and place back in the orders of the Day for immediate action to act upon an amendment-Appendix.)

HB 392, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 392**. Agreed.

Representative Barrows moved that **HB 392**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 14, 2000 roll call on **HB 392** - Appendix.)

HB 392, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 392**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **SB 280** be reassigned to the Committee on State Government: Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **SB 21, SB 341, SB 290, SB 121, SB 294, SB 339, HJR 129, HR 151, HB 872, HB 612, HB 956,** and **SB 351**. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 15, 2000. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 351, SB 121, SB 294, SB 339**

Natural Resources and Environment: **SB 21, HB 872**

Banking and Insurance: **SB 331**

Local Government: **SB 163, SB 72**

Report of Committees (Continued)

The Committee on Rules reported that **HB 818, HB 519, HB 533, HB 555, HB 788, HB 850, HB 852, HB 762, HB 789, HB 796, HB 895, HB 919, HB 930, HB 980, HB 1010, HB 142, HB 144, HB 181, HB 213, HB 430, HB 538, HB 739, HB 502, HB 576, HB 577, HJR 83, HJR 84, HJR 85, HB 267, HB 316, HB 824, HB 827, HB 844, HB 859, HB 923, HB 939, HB 950, HB 979, HB 991, HB 1011, HCR 116, HJR 142, HB 159, HB 178, HB 182, HB 202, HB 278, HB 305, HB 421, HB 563, HB 564, HB 588, HB 617, HB 660, HB 792,** and **HB 892** have been posted for passage in the Orders of the Day for March 15, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **SB 81, SB 94, HB 291, HB 744**

Motions, Petitions, and Communications (Continued)

Representative L. Clark moved the adoption of the following **Legislative Citation No. 109**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory and honor of William L. "Bill" Quinlan who served with distinction in the Kentucky Senate for twenty years, earning the sincere respect of those in the Chambers on both sides of the Capitol Rotunda. A Democrat who represented the 7th District in southwestern Jefferson County from 1972 to 1992, this low-keyed, good natured legislator was recognized as a dedicated and able lawmaker. A consumate professional, he was deeply devoted to the premise that the General Assembly is a proactive, independent institution which is responsive to the needs of the entire state. While in the Senate, he served as chairman of several committees and was the first senator elected chairman of the 26-member Jefferson County delegation in the General Assembly. Accomplishing much for his constituents, he paved the way for expansion of university, health and governmental facilities into southwestern Jefferson County, as well as the widening of Dixie Highway and construction of the Southwest floodwall. A graduate of St. Xavier High School and the University of Louisville, he was an Army veteran of the Korean War, a former member of the Board of Overseers at the University of Louisville; former president of the Grass Roots Democratic Club, a member of St. Edward Catholic Church and was active in numerous civic clubs. The members of this honorable body do solemnly join with Representative Larry Clark in extending deepest sympathy to all who share in the loss of Bill Quinlan and in expressing sincere gratitude for the privilege of honoring this distinguished and cherished colleague whose contributions made life better for so many Kentucky citizens. Done in Frankfort, this fourteenth day of March, in the year two thousand.

Legislative Citation No. 109 was adopted without objection.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "nay" on **HB 857, HB 946,** and **HB 992**. Agreed.

Representative Wilkey moved the adoption of the following **Legislative Citation No. 110**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Mary Elizabeth Gatewood and offers its sincerest condolences to the Gatewood family and to all those who share in the loss of this distinguished and admired citizen of Kentucky. This beloved wife of the late Stanley A. Gatewood; adoring mother of Mary Ann Arnold, Jane Maeser, the late Jimmy Gatewood, Larry Gatewood, Corky Robertson, Terry Wilkey, and Mark Gatewood; and doting grandmother of twenty-one grandchildren and fifteen great-grandchildren, Mrs. Gatewood was a retired employee of Jewish Hospital and gave generously of her time and talents in teaching calligraphy to other retirees. She will long be remembered for the tireless enthusiasm she demonstrated while working for the betterment of the St. Matthew's Community. Her greatest contributions and her legacy is the life of quiet dignity, love, grace and compassion she lived and her instilling these and other invaluable qualities in her children. The loss felt by the members of her family is shared by all Kentuckians. The esteemed members of this honorable body do solemnly join with Representative Rob Wilkey in honoring the memory of Mary Elizabeth Gatewood for the valuable contributions her presence lent to her family, her community and to this fine Commonwealth. Done in Frankfort, this fourteenth day of March, in the year two thousand.

Legislative Citation No. 110 was adopted without objection.

Representative Ballard moved the adoption of the following **Legislative Citation No. 111**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Jim Beshears upon being inducted into the Kentucky High School Athletic Association Hall of Fame in recognition of his tremendous contributions to the outstanding athletic tradition of this great Commonwealth. This remarkable athlete, who scored 2,832 career points, led South Hopkins to the Sweet Sixteen in 1957 and 1958. Later, coaching at South Hopkins High School, he compiled a record of 145-40. Inasmuch as Jim Beshears has truly reached a superior level of achievement in the field of athletics, the members of this august body are honored to join Representative Eddie Ballard in commending this talented recipient's full round of accomplishments as an athlete, coach, teacher and administrator and in honoring him for the recognition he has brought to Hopkins County and the Commonwealth of Kentucky. Done in Frankfort, this fourteenth day of March, in the year two thousand.

Legislative Citation No. 111 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 108**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Vernon O. Wilder, Sr. and respectfully joins with Representative Jim Stewart in expressing its deepest sympathy to his loving wife, Martha Brooks Wilder; his beloved children, Vernon O. Wilder, Jr., Jim Andy Wilder, Susan Wilder Begley, and Mary Earl Wilder Erickson; and step-children, Milton Brooks, Russell Brooks and Robert Brooks; and his cherished grandchildren, step-grandchildren and great-grandchildren. The beloved son of the late Andrew S. and Mary Ann Steele Wilder, he was preceded in death by his first wife, Sarah Lou Wilder; a son, Bill Wilder; and six brothers. After graduating from Berea College, he operated, with family members, Wilder Hardware Company; was an appraiser for First National Bank and Trust Company; and served as the Corbin building inspector. He was an active member of the First Christian Church, where he served as a deacon, elder, elder emeritus, Sunday School teacher and board chairman. Additionally, this outstanding citizen was a charter member of the Optimist Club; a former Kiwanian; served as chairman of the Corbin School Board; as a member of the First National Bank Board; and was an avid supporter of Little League activities. Honored and remembered on this day as an outstanding citizen of this Commonwealth, Vernon O. Wilder, Sr. will be deeply missed by all those whose lives were touched by his kind and generous presence. Done in Frankfort, this fourteenth day of March, in the year two thousand.

Legislative Citation No. 108 was adopted without objection.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that his vote be changed from "yea" to "nay" on **HCR 147**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 734**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "nay" on **HB 1000**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 629, HB 830, HB 903, HB 221,** and **HB 642**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Anderson moved that he be recorded as voting "yea" on **HB 992** and Floor Amendments **21, 20, 26, 29, 31,** and **34** to **HB 992**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 25, HB 177, HB 248, HB 258, HB 324, HB 389, HB 512, HB 571, HB 572, HB 650, HB 763, HB 768, HB 771, HB 822, HB 843, HB 856, HB 866, HB 887, HB 896, HB 901, HB 914,** and **HB 944**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **HB 946**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 668**. Agreed.

Representative Cornett moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cornett moved that he be recorded as voting "yea" on **HB 57**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Anderson moved that he be recorded as voting "nay" on Floor Amendment No. 6 to **HB 992**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 675** and **HB 736**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on Floor Amendment No. 4 to **HB 437**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 1000**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 1024**, by Representative Childers:

On page 1, beginning on line 5 and ending on line 11 by deleting subsection (2) in its entirety and by inserting in lieu thereof the following:

"***(2) The fiscal court shall ensure that the budgets of the clerk and sheriff contain the proper salary for their respective offices under KRS 64.5275 and that the salary be paid in full by December 31 of each year as set out in subsection (1) of this section.***".

Floor Amendment No. 2 to the House Committee Substitute to **SB 91**, by Representative Tapp:

On page 9, line 3 by deleting "***and***";

On page 9, line 7 after "officer" by inserting "***; and***

(6) An";

On page 9, on lines 8 and 9, by deleting all the new and underlined language;

On page 9, line 10 by deleting "***of Education an***";

On page 9, line 10 after "***publisher***" by inserting "***or manufacturer***";

On page 9, line 11 after "***publisher***" by inserting "***or manufacturer***"; and

On page 9, line 11 by deleting the period "." and inserting the period "." from the end of line 7 in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 902**, by Representative Anderson:

On page 2, line 3, before "***The***", by inserting "***Notwithstanding any other provision of this subchapter, an advanced technology start-up company located in a qualified county as defined in KRS 154.22-010(16) shall be eligible for, and shall be eligible to transfer under Section 1 of this Act, income tax credits equal to one and one-half (1-1/2) times the amount of income tax credits for which it would otherwise be eligible under this subchapter.***

SECTION 4. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:".

On page 2, line 6, by deleting "4" after "Section" and inserting "5", and renumbering the subsequent sections accordingly.

On page 6, line 20, by deleting "***4***" and inserting "***5***" after "***Section***".

On page 8, line 6, by deleting "***5***" and inserting "***6***" after "***Section***".

On page 8, line 9, by deleting "***5***" and inserting "***6***" after "***Section***".

On page 8, line 15, by deleting "***5***" and inserting "***6***" after "***Section***".

On page 9, line 27, by deleting "***5***" and inserting "***6***" after "***Section***".

Floor Amendment No. 2 to the Committee Substitute to **HB 305**, by Representative Feeley:

On page 1, line 20, after "***protocols***", by deleting the "***;***" by inserting "***. The documentation and recordkeeping protocols shall include notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health professional, and informed written consent by parents or guardians.***".

Floor Amendment No. 5 to the Committee Substitute to **HB 366**, by Representative Barrows:

On page 28, lines 5 through 27, and on page 29, lines 1 through 13, by deleting same so as to delete Section 19 of the bill in its entirety, and by renumbering subsequent sections accordingly.

Floor Amendment No. 6 to the Committee Substitute to **HB 366**, by Representative Barrows:

On page 2, line 11, by inserting, "***scientifically reliable***" before, "***test***",

On page 2, line 22, by inserting, "***scientifically reliable***" before, "***test***", and

On page 11, line 16, by deleting, "***Office of the Attorney General***" and inserting in lieu thereof, "***Prosecutor's Advisory Council***".

Floor Amendment No. 1 to **HB 288**, by Representative A. Arnold:

On page 1, line 1, beginning on line 1, and ending on page 6, line 10, by deleting the language in its entirety; and

On page 6, line 11, by deleting "Section 3." and inserting "Section 1."; and

On page 6, line 21, by deleting "***seven hundred dollars ($700)***" and inserting "***three hundred dollars ($300)***"; and

On page 7, line 8, by deleting lines 8 to 12 in their entirety.

Floor Amendment No. 2 Title to **HB 288**, by Representative A. Arnold:

By amending the title to read "AN ACT relating to elections.".

Floor Amendment No. 5 to the Committee Substitute to **HB 502**, by Representative Riner:

On page 233, between lines 4 and 5, by inserting a new Section 34 to read as follows

"Section 34. Notwithstanding KRS 45.763, 45.793, and 45.760 to the contrary, a capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and the biennial budget report if the purpose of the project or equipment is to reduce energy costs through a guaranteed energy savings contract with a qualified provider, as defined in KRS 45A.345, and the energy cost savings associated with the contract are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of twenty (20) years or less.".

Floor Amendment No. 1 to **HB 421**, by Representative Palumbo:

On page 2, line 13, after "***neglect***", by inserting "***as defined at 42 C.F.R. 488.301***"; and

On page 2, line 13, after "***abuse***", by inserting "***as defined at 42 C.F.R. 488.301***".

Floor Amendment No. 6 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 11, line 6, delete "27,375,600" and insert "28,316,700" in fiscal year 2000-01;

On page 11, line 11, delete "33,305,300" and insert "118,583,300" in fiscal year 2000-01, and delete "36,708,600" and insert "117,903,600" in fiscal year 2001-02;

On page 11, after line 11 and before line 12, insert the following

"The Secretary of the Finance and Administration Cabinet shall reduce the Part I, Operating Budget, General Fund appropriation for each budget unit to provide funding for this purpose. The Secretary of the Finance and Administration Cabinet shall communicate this action by budget unit to the Interim Joint Committee on Appropriations and Revenue."

On page 11, line 16, delete "forty-one percent (40%)" and insert "one hundred percent (100%)";

On page 11, line 17, delete "and forty four percent (44%) effective July 1, 2001,";

On page 12, line 8, delete "July 1, 2001" and insert "July 15, 1998";

On page 14, delete line 5 through line 9;

On page 14, line 12, delete "62,680,900" and insert "146,900,000" in fiscal year 2000-01, and delete "67,705,000" and insert "146,900,000" in fiscal year 2001-02;

and by adjusting the subtotals and totals accordingly.

Floor Amendment No. 7 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 233, after line 4, by inserting the following:

" 34. There shall be allowed as a credit against the tax imposed by KRS 143.020 equal to three and nine-fifteenths thousands of a percent (3.915%) of the gross value of coal severed by the underground methods from seams with an average thickness of thirty-seven (37) inches or less or for coal severed by methods other than underground if the coal has a sulfur content of four and one-half percent (4.5%) or greater. The credit shall be equal to two and one-half percent (2.5%) for coal mined by underground methods from seams with an average thickness of greater than thirty-seven (37) inches or coal mined by other than underground methods if the coal has a sulfur content of three and one-half percent (3.5%) or greater but less than four and one-half percent (4.5%). The Secretary of the Finance and Administration Cabinet shall reduce the PART I, Operating Budget, General Fund appropriation for each budget unit to provide funding for this provision. The Secretary of the Finance and Administration Cabinet shall communicate this action by budget unit to the Interim Joint Committee on Appropriations and Revenue.".

Floor Amendment No. 3 to the House Committee Substitute to **SB 91**, by Representative Riner:

On page 7, line 10, after "***free of***" by inserting "***political,***"; and

On page 7, line 11, after the period ".", by inserting " ***Theories should be distinguished from fact and presented in an objective educational manner.***"

Floor Amendment No. 4 to the House Committee Substitute to **SB 91**, by Representative Riner:

On page 2, between lines 15 and 16, by inserting the following:

"***(e) Provide notice of and the opportunity for public inspection of textbooks and programs offered for adoption and use in the public schools;***

(f) Conduct a public hearing for the purpose of receiving public comment concerning textbooks and programs under consideration;"

On page 2, line 16, by bracketing and striking through "(e)" and inserting in its place "***(g)***"; and

On page 2, line 18, by deleting "***(f)***" and inserting in its place "***(h)***".

Floor Amendment No. 8 to the Committee Substitute to **HB 502**, by Representative Callahan:

On page 106, after line 7 and before line 8, by inserting the following:

" z. Residential Village Breezeway Structural Repair Project
Restricted Funds 950,000 (current year)

The above project shall be funded from reallocated appropriations provided in Part II, Capital Projects Budget to Northern Kentucky University.".

Floor Amendment No. 1 to the Committee Substitute to **HB 739**, by Representative Treesh:

On page 26, line 3, after "of" by inserting "***nine (9)***" and by bracketing and striking through "twelve (12)"; and

On page 26, line 4, after "one (1)" by inserting "***semester or summer term and not to exceed twenty-seven (27) teaching hours in a***".

Floor Amendment No. 2 to the Committee Substitute to **HB 739**, by Representative Treesh:

On page 26, line 3, after "of" by inserting "***nine (9)***" and by bracketing and striking through "twelve (12)"; and

On page 26, line 4, after "one (1)" by inserting "***semester or summer term and not to exceed twenty-four (24) teaching hours in a***".

Floor Amendment No. 2 to the Committee Substitute to **HB 855**, by Representative Barrows:

On page 6, line 23, by deleting "***a***" and "***university's***" and inserting in lieu thereof "***universities'***";

On page 6, line 24, by deleting "***program***" and inserting in lieu thereof "***programs***" and by deleting "***its***" and inserting in lieu thereof "***their***";

On page 6, line 25, after "***university***" by inserting "***or universities***";

On page 6, line 26, after "***hemp***" by inserting "***research***";

On page 7, line 1, by deleting "***institution's***" and inserting in lieu thereof "***institutions'***";

On page 7, lines 2 and 3, by deleting "***is waived from the state licensure procedure***" and inserting in lieu thereof "***shall be separately licensed by the state***";

On page 9, after line 11 add the following:

"Section 9. (1) Sections 2 to 6 and Section 8(2) and (3) of this Act that relate to the authorization to grow, produce, and handle industrial hemp by individuals in the private sector shall become effective on July 15, 2002.

(2) Section 1 of this Act and the provisions of Sections 7 and 8(1) and (4) of this Act, that direct the Department of Agriculture, Council on Postsecondary Education, and universities to undertake industrial hemp research shall become effective on the normal effective date of this Act and those entities are directed to take every action necessary to comply with Federal requirements for obtaining industrial hemp permits.".

Floor Amendment No. 3 to the Committee Substitute to **HB 739**, by Representative Treesh:

On page 26, line 3, after "of" by inserting "***nine (9)***" and by bracketing and striking through "twelve (12)"; and

On page 26, line 4, after "one (1)" by inserting "***semester or summer term and not to exceed twenty-one (21) teaching hours in a***".

Floor Amendment No. 7 to the Committee Substitute to **HB 366**, by Representative Barrows:

On page 25, lines 25 through 27, and on page 26, lines 1 through 13, by deleting Section 17 of the bill in its entirety and by renumbering subsequent sections accordingly, and

On page 36, line 16, by deleting, "***18***" and inserting in lieu thereof, "***17***", and

On page 39, between lines 23 and 24, to repeal KRS 189A.410 by inserting the following:

"189A.410 Purposes for issuance of hardship license -- Prohibition against issuance when alcohol or substance test was refused."

Floor Amendment No. 9 to the Committee Substitute to **HB 502**, by Representative Damron:

On page 261, between lines 14 and 15, insert the following:

"g. Abstinence Education: The department shall use federal funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: Ninety-five percent (95%) shall be used for community-based grants to institute abstinence education programs; five percent (5%) shall be used to administer and evaluate the effectiveness of the program; and if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

The abstinence education program shall include teaching the social, psychological, and health benefits of sexual abstinence; that abstinence is the expected standard for all school age children; that abstinence is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems; that a monogamous marital relationship is the expected standard for human sexual activity; that sexual activity outside of marriage is likely to be harmful psychologically and physically; that bearing children outside of wedlock is likely to be harmful to the child, the child's parents, and society; ways for young people to reject sexual advances; how alcohol and drug use increases vulnerability to sexual advances; and the importance of becoming self-sufficient before engaging in sexual activity.".

Floor Amendment No. 10 to the Committee Substitute to **HB 502**, by Representative Damron:

On page 261, between lines 14 and 15, insert the following:

"g. Abstinence Education: The department shall use federal funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: Ninety-five percent (95%) shall be used for community-based grants to institute abstinence education programs; five percent (5%) shall be used to administer and evaluate the effectiveness of the program; and if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign."

Floor Amendment No. 1 to **HB 617**, by Representative Marzian:

Beginning on page 1, line 1, and continuing through page 3, line 13, by deleting the language in its entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) To provide for health care services to low-income families, the Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to apply less restrictive income and resource methodologies for the purpose of determining family eligibility for Medicaid.

(2) To determine Medicaid eligibility for families with children for purposes of this section, and as provided under 42 U.S.C. sec. 1396u-1, the Cabinet for Health Services shall:

(a) Apply a resource limit of no less than four thousand dollars ($4,000) per household;

(b) Exempt two (2) cars from the resource limit for families with two (2) parents and one (1) car for families with one (1) parent; and

(c) Disregard household income to the extent that families with income up to one hundred percent (100%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, and who otherwise qualify, shall be eligible for Medicaid coverage.

(3) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

(4) To implement the provisions of this section, the Department for Medicaid Services shall apply, no later than September 1, 2000, for any federal waiver that might be necessary to:

(a) Exclude from coverage under this section adults who are enrolled in employer-offered health benefit plans, as defined in KRS 304.17A-005, in which the total amount of employer-required premium shares is less than ten percent (10%) of gross household income; and

(b) Provide for a copayment of three dollars ($3) for each adult enrolled under this section to be applied to physician office visits, laboratory services, radiology services, prescription drugs, hospital admissions, outpatient surgery, and nonemergency use of the emergency room.

(5) The cabinet shall permit families to apply for coverage under this section using the same application form used by the cabinet for purposes of determining children's eligibility for the Kentucky Children's Health Insurance Program established by KRS 205.6481 to 205.6495.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Eligible consumer" means any full-time resident of Kentucky who:

(a) Is age sixty-five (65) or older;

(b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and

(c) Is enrolled in the Qualified Medicare Beneficiary Program;

(3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 5 of this Act; and

(4) "Program" means the Kentucky Prescription Drug Assistance Program established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Prescription Drug Assistance Program is created for low-income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.

(2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be five hundred dollars ($500).

(3) A copayment of five dollars ($5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.

(4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.

(5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

- *(a) Develop an application and process to determine whether a person is an eligible consumer;*
- *(b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and*
- *(c) Implement all other provisions of Sections 2 to 5 of this Act.*

(7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:

- *(a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and*
- *(b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).

(2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.

(2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost-effectiveness of the program." and by renumbering subsequent sections accordingly; and

On page 3 line 23, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 3, line 26, by deleting "*commissioner of the Department of Insurance*" and inserting "*commissioner of the Department for Medicaid Services*" in lieu thereof; and

On page 4, line 26, by deleting " *and health insurance*"; and

On page 5, line 6, by deleting "*Department of Insurance*" and inserting "*Cabinet for Health Services*" in lieu thereof; and

On page 5, beginning on line 7 and continuing on line 8 by deleting "*health insurance consumers,*" and inserting "*consumers and*"; and

On page 5, line 8, by deleting "*, and insurance company representatives*"; and

On page 5, by deleting lines 12 and 13 in their entirety and inserting the following in lieu thereof:

"*(a) Seventy (70%) of all moneys in the fund shall be used to fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly created in Sections 2 to 5 of this Act.*"; and

On page 5, beginning on line 20 and continuing to line 21, by deleting "*the Kentucky Access fund*" and inserting "*fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly*"; and

On page 5, beginning on line 26 and continuing on line 27, by deleting "*and access to health insurance for Kentucky residents*"; and

On page 6, line 2, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 5, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 10, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

Beginning on page 6, line 15 and continuing to page 58, line 9, by deleting Sections 3 to 33 in their entirety and inserting the following in lieu thereof:

"Section 7. (1) There is appropriated $7,000,000 for the fiscal year 2000-2001 and $7,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to fund the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act.

(2) There is appropriated $10,700,000 for fiscal year 2000-2001 and $14,300,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which together with corresponding federal matching funds shall be used to expand Medicaid coverage to low-income families up to 100% of the federal poverty level. The Cabinet for Health Services shall set the income disregards at levels designed to expend all the funds appropriated for this program, but ensure that the allocations are not exceeded. Every six months after the effective date of this Act, the cabinet shall report to the Interim Joint Committee on Health and Welfare the number of individuals enrolled in Medicaid under Section 1 of this Act, the amount of income disregarded in determining eligibility, the amount of funds that have been expended under Section 1 of this Act, and the number of copayments charged in each category of service.

(3) Any unexpended funds appropriated for the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act shall be reallocated for the expansion of Medicaid to low-income families according to Section 1 of this Act.

Section 8. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly; and whereas moneys received in the tobacco settlement agreement fund should be disbursed to begin funding important and worthy programs as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 2 Title to **HB 617**, by Representative Marzian:

By amending the title to read as follows:

"AN ACT relating to health care improvement, making an appropriation therefor, and declaring an emergency.".

Floor Amendment No. 11 to the Committee Substitute to **HB 502**, by Representative Moberly:

On page 251, after line 19 and before line 20 by inserting the following:

"e. Allocation of Safe Schools Funds: Notwithstanding KRS 158.148, the General Fund appropriations in this Act in Part I, C., Section 24, Management Support Services, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.148 through 158.442.".

Floor Amendment No. 12 to the Committee Substitute to **HB 502**, by Representative Webb:

On page 266, lines 16 through 17, by deleting them in their entirety, and inserting the following in lieu thereof:

"350.085(6) shall apply to either the applicant or by any person who owns or controls the applicant who is currently in violation. The"; and

On page 266, between lines 20 and 21, by inserting the following:

"The cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have thirty (30) days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief.".

Floor Amendment No. 1 to **SB 34**, by Representative Collins:

On page 5, by inserting the following between lines 13 and 14:

"Section 7. KRS 12.210 is amended to read as follows:

(1) The Governor, or any department with the approval of the Governor, may employ and fix the term of employment and the compensation to be paid to an attorney or attorneys for legal services to be performed for the Governor or for such department. An attorney hired for the collection of revenue owed to the state by a resident shall not be hired by personal service contract. ~~[Before approving the employment of an attorney the Governor shall consult the Attorney General as to whether legal services requested by departments are available in the Attorney General's office.]~~ The compensation and expenses of any attorney or attorneys employed under the provisions of this section shall be paid out of the appropriations made to such department as other salaries, compensation and expenses are paid, except when the terms of employment provide that the compensation shall be on a contingent basis, and in such event the attorneys may be paid the amount specified out of the moneys recovered by them or out of the general fund. If the Governor approves the employment, the terms of employment shall be duly entered by executive order upon the executive journal in the Office of the Secretary of State.

(2) An attorney may be employed pursuant to the provisions of subsection (1) of this section to render legal services for one (1) or more departments, boards, program cabinets, offices or commissions.

Section 8. KRS 12.213 is amended to read as follows:

The Governor shall provide by regulation~~[, with advice of the Attorney General,]~~ for the defense of employees or former employees of the Commonwealth pursuant to KRS 12.211 to 12.215 by one (1) or more of the following methods:

(1) By the Attorney General;

(2) By employing other counsel for this purpose as provided for in KRS 12.210;

(3) By authorizing the purchase of insurance which requires that the insurer provide or underwrite the cost of the defense; or

(4) By authorizing defense by counsel assigned to or employed by the department, agency, board, commission, bureau, or authority which employed the person requesting the defense.";

and, on page 5, line 14, by changing "Section 7" to "Section 9".

Floor Amendment No. 2 Title to **SB 34**, by Representative Collins:

On page 1, by amending the title by deleting "reorganization" and inserting in lieu thereof "state government".

Floor Amendment No. 13 to the Committee Substitute to **HB 502**, by Representative Anderson:

On page 200, by deleting lines 24 and 25 in their entirety; and by inserting the following:

(the following are inserted into the FY 2000-2001 column)

"Greenup County School Board - Site Based Councils	80,000
Raceland Independent School System - Site Based Councils	30,000
Russell School System - Russell Independent Primary - Playground	35,000
Russell School System - McDowell School - Playground	3,800"

(the following are inserted in the FY 2001-2002 column)

"Greenup Fiscal Court - Greenup County War Memorial	10,200
Greenup County School Board - Site Based Council	25,000
Raceland Independent School System - Site Based Council	25,000
Russell Independent School System - Site Based Council	25,000";

and by adjusting the totals accordingly.

Floor Amendment No. 2 to **HB 788**, by Representative Webb:

On page 1, line 4 after "***fees,***" by deleting "***dues,***";

On page 1, line 5 by deleting "***or on a cooperative nonprofit basis,***";

On page 1, line 17 after "***manner***" by deleting "***the check acceptance policy of the retail seller***";

On page 1, line 18 by deleting "***and***";

On page 1, after line 18 by adding

"***(2) If the retail seller uses the services of a check authorization company, the retail seller shall post in its place of business in a conspicuous location and in a clear and conspicuous manner notice that a check authorization company is used.***"

On page 1, line 19 by deleting "***(2)***" and by inserting in lieu thereof "***(3)***" and after the comma and before "***the***" by inserting "***and the retailer does not accept a check from a consumer,***";

On page 1, line 20 after "***shall***" and before "***so***" by inserting "***provide to the consumer the reason for failure to accept the check and the name***" and by deleting "***so state in its check acceptance policy and list the name and address***";

On page 1, line 21 after "***and***" and before "***shall***" by inserting "***the toll-free number established by***" and by deleting "***shall make available to a consumer the***";

On page 1, line 22 by deleting "***written policy of***" and after "***company***" and before the period by inserting "***as required by paragraph (d) subsection (1) of Section 3 of this Act***";

On page 3, line 24 after "***seller***" and before "***has***" by deleting "***or check authorization company***";

On page 3, line 25 by deleting "***Sections 1 to 5***" and inserting in lieu thereof "***Section 2***" and after "***recover***" by adding "***actual damages, plus the costs of the action.***";

On page 3, line 26 before "***the***" by adding

"***(3) If the court finds that a check authorization company has failed to comply with any provision in Sections 3 or 4 of this Act a consumer shall recover***";

On page 4, line 3 after the first comma and before "***punitive***" by inserting "***and***" and by deleting "***not less than one***";

On page 4, line 4 by deleting "***thousand dollars ($1,000) nor***" and by deleting "***for***"; and

On page 4, line 4, before "***more***" by inserting "***not***"; and

On page 4, by deleting line 5 in its entirety; and

On page 4, line 6 by deleting "***deems proper***".

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 305**, by Representative Bratcher:

On page 3, line 20 after "***procedures***" and before the period "***.***", by inserting the following: "***, except that any public school pupil who is prescribed medication to control assaultive, disruptive, or irrational behavior shall not attend public school on any school day that he or she does not take the medication as prescribed by a physician. A parent or guardian of the pupil shall administer the appropriate medication or may provide the medication to the appropriate school employee for administration in accordance with protocols and guidelines for health procedures adopted by the local board of education or the school***"

Floor Amendment No. 14 to Committee Substitute to **HB 502**, by Representative Heleringer:

On page 233, after line 4, by inserting the following:

" 34. For the taxable years beginning after December 31, 1999, and before January 1, 2002, a nonrefundable credit against the tax imposed by KRS 141.020 in an amount equal to 50% of the tuition paid, not to exceed $300, shall be allowed for resident individuals if adjusted gross income, computed on the basis of combined adjusted gross income, does not exceed $50,000 and if one or more dependents attends an accredited nonpublic elementary or secondary school. In no event shall a deduction be allowed under KRS Chapter 141 for any amounts paid for which a credit permitted under this section is claimed. For taxable years beginning after December 31, 2000, the amount of the credit and the adjusted gross income shall be indexed for the consumer price index. Funding shall be provided from the budget reserve trust fund established under KRS 48.705.".

Floor Amendment No. 16 to Committee Substitute to **HB 502**, by Representative Anderson:

On page 177, line 14, delete "Green" and insert "Greenup";

On page 177, line 15, delete "Green" and insert "Greenup";

On page 177, line 15, after the word "Extensions" insert the following "for Cub Run off Little White Oak; Plum Grove/Hidden Hollow Roads off Route 1 between Greenup and Argillite; Beechy Creek areas off Route 7 north of Lynn; Sansuck Road off Route 207 south of Argillite; Horn Hollow area from Route 1 to Route 503; Graysbranch/Mullins Road area off U.S. 23 near Lloyd; Hoods Run off Route 2/7- Red Hot Area; Three Prong, Leatherwood, Kehoe Area; and Big White Oak.";

On page 177, line 16, delete "500,000" and insert "175,000";

On page 177, after line 16 and before line 17, insert the following

be. Greenup County Volunteer Fire Departments
Bond Funds 50,000

bf. City of Greenup-Winifred Street Sewer
Bond Funds 50,000

bg. City of Russell for Water, Sewer, Roads, Public Safety, and Parks Projects

Bond Funds 50,000
bh. City of Flatwoods for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 50,000
bi. City of Southshore for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 25,000
bj. City of Greenup for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 25,000
bk. City of Raceland for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 25,000
bl. City of Worthington for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 25,000
bm. City of Wurtland for Water, Sewer, Roads, Public Safety, and Parks Projects
Bond Funds 25,000";

and renumber accordingly.

Floor Amendment No. 15 to the Committee Amendment No. 2 to the Committee Substitute No. 2 to **HB 502**, by Representative Anderson:

On page 3, 18 lines from the top, by deleting "Green" and inserting "Greenup".

Floor Amendment No. 3 to the Committee Substitute to **HB 855**, by Representative Barrows:

On page 1, line 3, by changing "*8*" to "*4*"; and
on page 1, by deleting all of lines 7, 8, 9, and 10; and
on page 1, line 11, by changing "*(5)*" to "*(3)*"; and
on page 1, line 15, by changing "*(6)*" to "*(4)*"; and
on page 1, line 20, by changing "*8*" to "*4*"; and
on page 1, by deleting lines 22, 23, 24, and 25; and
on page 2, by deleting lines 1 and 2; and
on page 2, line 3, by changing "*(8)*" to "*(5)*"; and
on page 2, line 9, by changing "*(9)*" to "*(6)*"; and
on page 2, by deleting all of lines 16 through 20; and
on page 2, line 21, by deleting "*(3)*"; and
on page 2, line 22, by deleting "***the growing, handling,***"; and
on page 2, line 23, by deleting "***manufacture, production, and***", and deleting "***of***", and replacing it with "***on***"; and
on page 2, by deleting all of lines 24 through 27; and
on pages 3 to 6, by deleting lines 1 through 3; and
starting on page 3, by deleting all of Sections 3, 4, 5, and 6; and
on page 6, line 19, by changing "7" to "3"; and
On page 6, line 23, by deleting "***a***" and "***university's***" and inserting in lieu thereof "***universities***";

On page 6, line 24, by deleting "***program***" and inserting in lieu thereof "***programs***" and by deleting "***its***" and inserting in lieu thereof "***their***";

On page 6, line 25, after "***university***" by inserting "***or universities***";
On page 6, line 26, after "***hemp***" by inserting "***research***";
On page 7, line 1, by deleting "***institution's***" and inserting in lieu thereof "***institutions***";

on page 7, lines 2, 3, and 4, by deleting "***, and is waived from the state licensure procedure to grow hemp for industrial hemp and hemp seed research***"

on page 7, line 24, after "***This***" by inserting "***exemption from criminal liability***"
on page 8, after line 12 by adding the following new Section

"SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:
Kentucky shall adopt the Federal rules and regulations that are currently enacted regarding industrial hemp and any subsequent changes thereto.";

on page 8, line 13, by changing "8" to "5";

on page 8, line 15, by deleting "*(1)*"; and

starting on page 8, line 26, by deleting the rest of the section.

Floor Amendment No. 1 to **HB 588**, by Representative Palumbo:

On page 1, line 23, to delete "***twenty-five (25)***" and insert in lieu thereof "***twenty-seven (27)***"; and

On page 3, after line 1, by inserting:

"***15. Henderson - Henderson County Chamber of Commerce;***"; and

On page 3, after line 3, by inserting:

"***1. A city of the second class;***"; and

On page 3, line 4, by deleting "***1.***" and inserting in lieu thereof "***2.***"; and

On page 3, line 5, by deleting "***2.***" and inserting in lieu thereof "***3.***"; and

On page 3, line 6, by deleting "***3.***" and inserting in lieu thereof "***4.***"; and

On page 3, line 12, by deleting "***six (6)***" and inserting in lieu thereof "***seven (7)***"; and

On page 3, line 13, by deleting "***six (6)***" and inserting in lieu thereof "***seven (7)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 577**, by Representative J. Adams:

On page 2, by deleting lines 23 to 25 in their entirety; and

On page 4, after line 14 and before line 15, by inserting:

"g. Christian County - Additional Scope 8,284,200";

and by renumbering accordingly.

Floor Amendment No. 17 to the Committee Substitute to **HB 502**, by Representative Moberly:

On page 251, after line 19 and before line 20 by inserting the following:

"e. Allocation of Safe Schools Funds: Notwithstanding KRS 158.446, the General Fund appropriations in this Act in Part I, C., Section 24, Management Support Services, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440 to 158.442 and KRS 158.445 to 158.446.".

Floor Amendment No. 8 to the Committee Substitute to **HB 366**, by Representative Hoover:

On page 16, line 2, by inserting after, "Cabinet", the following, "***, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes***".

Floor Amendment No. 18 to the Committee Substitute to **HB 502**, by Representative Bather:

On page 222, after line 8 and before line 9, by inserting:

"d. Item 7, Project u, Muhammad Ali Center. The museum shall focus on Muhammad Ali's philanthropic and athletic achievements.".

Floor Amendment No. 19 to the Committee Substitute to **HB 502**, by Representative Bather:

On page 179, line 7, delete "50,000" and insert "10,000"; and

On page 179, after line 7 and before line 8, insert

"bu. St. Stephen Family Life Center, inc.

Bond Funds 40,000".;

and by renumbering accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 577**, by Representative Crenshaw:

On page 3, line 5, after "balance" insert "at the end of fiscal year 2000-2001"; and delete "2000-2001" and insert "2001-2002".

Floor Amendment No. 4 to the Committee Substitute to **HB 855**, by Representative Coleman:

On page 1, line 21, following "***KRS 218A.010***" to add "***and 138.070***"; and

On page 3, between lines 3 and 4, to insert:

"***(7) The department, with the written approval of the commissioner of State Police, shall promulgate administrative regulations specifying:***

(a) Methods of sampling industrial hemp plants in the field and the transmission of plants to a laboratory for testing; and

(b) A testing method or testing methods which shall ensure consistent accurate testing of THC levels in hemp seeds and plants and which shall accurately reflect the highest level of THC in the hemp seed or in the hemp plant during any time in the plant's growth process."; and

On page 4, line 12, following "***relating to***" to insert "***possession, trafficking,***"; and

On page 4, line 13, following "***relating to***" to insert "***possession, trafficking,***"; and

On page 4, line 14, following "***relating to***" to insert "***possession, trafficking,***"; and

On page 4, line 16, following "***relating to***" to insert "***possession, trafficking,***"; and

On page 4, line 23, following "***the department***" to insert "***or any peace officer***"; and

On page 4, line 24, to delete "***grown,***"; and

On page 4, line 25, following "***hemp production.***" to insert "***The location where industrial hemp is grown or cultivated may be inspected by the department or any peace officer at any time.***"; and

On page 5, line 1, to delete "***director***" and to insert in lieu thereof "***commissioner***"; and

On page 5, line 11, following "***Commissioner may***" to insert "***, at departmental expense,***"; and

On page 5, line 11, following "***may test***" to insert "***or cause testing***"; and

On page 5, line 12, following "***or conduct***" to insert "***or cause the conducting of***"; and

On page 5, line 14, to delete "***shall enter into agreements with***"; and

On page 5, line 14, to delete "***cooperate with other***"; and

On page 5, line 15, to delete "***federal, state,***" and to insert in lieu thereof "***state***"; and

On page 5, line 15, to delete "***or other authorized government***"; and

On page 5, line 16, following "***agencies***" to delete "***to***" and to insert in lieu thereof "***shall***"; and

On page 6, line 3, to delete "***or***"; and

On page 6, line 5, to delete "***Act.***" and to insert in lieu thereof "***Act; or***"; and

On page 6, between lines 5 and 6, to insert the following:

"***(d) Is convicted of, enters a guilty plea to, or an Alford plea to a crime which would make the person ineligible to hold a license under Section 3 of this Act.***".

Floor Amendment No. 1 to **SB 247**, by Representative Stumbo:

On Page 21, after line 7, by inserting,

"Section 17. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city ***and the governing body of the county containing the city*** is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each[~~ city~~] budget period at ***a***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the ***local government***[~~city~~] for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city ***and county***. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, ***except:***

(1) ~~[but]~~ A credit against ***a regulatory license***~~[such]~~ fee ***in a city*** shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070***; and***

(2) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.".

Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 305**, by Representative Colter:

On page 2, line 2, by deleting "***and***";

On page 2, line 7, after "***training;***" by inserting "***and***

(d) Directed to perform the service by his or her supervisor";

On page 3, line 2, by deleting "***and***";

On page 3, line 4, after "***Act***" by inserting "***; and***

(d) Directed to perform the service by his or her supervisor".

Floor Amendment No. 1 to **HB 893**, by Representative Simpson:

On page 2, line 7, by bracketing and striking through the word "county"; and

On page 2, line 7 by inserting the words "***fiscal court***" in front of the word "personnel"; and

On page 3, line 7 by placing a closing bracket after the word "~~pleasure~~"; and

On page 3, lines 7 through 9 by removing the brackets and strikethroughs from the words "~~The fiscal court pursuant to KRS 64.530(4), shall fix reasonable compensation for the deputy county judge/executive and such other employees]~~".

Floor Amendment No. 3 to **HB 617**, by Representative Stumbo:

On page 1, after the enacting clause, delete the entire bill and insert the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Administrator" is defined in KRS 304.9-051(1);

(2) "Agent" is defined in KRS 304.9-020;

(3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in Section 11 of this Act;

(4) "Authority" means the Kentucky Health Care Improvement Authority;

(5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

(6) "Commissioner" is defined in KRS 304.1-050(1);

(7) "Department" is defined in KRS 304.1-050(2);

(8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;

(9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;

(10) "Eligible individual" is defined in subsection (7) of Section 17 of this Act;

(11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance program established and operated under KRS 304.17A-400 to 304.17A-480;

(12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through September 30, 2000, in the individual market to guaranteed acceptance program qualified individuals;

(13) "Health benefit plan" is defined in KRS 304.17A-005(17);

(14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant

neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;

(15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;

(16) "Insurer" is defined in subsection (22) of Section 17 of this Act;

(17) "Kentucky Access" means the program established in accordance with Sections 1 to 16 of this Act;

(18) "Kentucky Access Fund" means the fund established in Section 11 of this Act;

(19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in subsection (5) of Section 2 of this Act;

(20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in subsection (5) of Section 2 of this Act;

(21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;

(22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

(23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

(24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);

(25) "Standard health benefit plan" means a health benefit plan that meets the requirements of Section 21 of this Act;

(26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;

(27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and

(28) "Utilization management" is defined in KRS 304.17A-500(12).

SECTION 1. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of thirteen (13) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with Sections 1 to 16 of this Act and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

(a) The commissioner of the Department of Insurance, who shall serve as chairperson;

(b) The secretary of the Cabinet for Health Services, who shall serve as vice chairperson;

(c) One (1) nonvoting member serving ex officio from the House of Representatives, who shall be appointed by and serve at the pleasure of the Speaker of the House;

(d) One (1) nonvoting member serving ex officio from the Senate, who shall be appointed by and serve at the pleasure of the President of the Senate;

(e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine;

(f) The commissioner of the Department for Public Health;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of which shall be male and at least one (1) of which shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen at-large members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department

of Insurance for administrative purposes and shall establish advisory boards it deems appropriate which shall consist of health insurance consumers, health care providers, and insurance company representatives to assist with oversight of fund expenditures.

(5) Grants and funds obtained under this chapter shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once, but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under Sections 1 to 16 of this Act. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 16 of this Act, including but not limited to retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chairperson or a majority of the authority.

SECTION 2. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.

(2) Kentucky Access shall operate under the supervision of the department.

(3) Neither the department nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the department shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless such act or omission constitutes willful or wanton misconduct. The department may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

SECTION 3. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department shall, through itself or designated agents:

(1) Establish administrative and accounting procedures for the operation of Kentucky Access;

(2) Enter into contracts as necessary;

(3) Take legal action necessary:

(a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;

(b) To recover any amounts erroneously or improperly paid by Kentucky Access;

(c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;

(d) To recover other amounts due Kentucky Access; or

(e) To operate and administer its obligations under the provisions of Sections 1 to 16 of this Act;

(4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, premium rates, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Premium rates and rate schedules may be adjusted for appropriate factors, including but not limited to age and

sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(5) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization;

(6) Select a third-party administrator in accordance with Section 6 of this Act;

(7) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter as determined by the commissioner and require that all forms be submitted to and approved by the commissioner;

(8) Adopt nationally recognized uniform claim forms according to KRS 304.14-135;

(9) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including but not limited to eligibility requirements, procedures for enrollment, premium rates, and a toll-free telephone number to call for questions;

(10) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The department shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;

(11) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the department and be subject to an annual audit of its operations;

(12) Issue health benefit plans effective January 1, 2001, in accordance with the requirements of Sections 1 to 16 of this Act;

(13) Require a referral fee of fifty dollars ($50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;

(14) Bill and collect premiums from enrollees in the amount determined by the department;

(15) Assess insurers in accordance with Section 11 of this Act;

(16) Reimburse GAP participating insurers for GAP losses pursuant to Section 11 of this Act;

(17) Establish a provider network for Kentucky Access by developing a statewide provider network or by contracting with an insurer for a statewide provider network. In the event the department contracts with an insurer, the department may take into consideration factors including, but not limited to, the size of the provider network, the composition of the provider network, and the current market rate of the provider network. The provider network shall be made available to the third-party administrator specified in Section 6 of this Act and shall be limited to Kentucky Access enrollees.

(18) Be audited by the Auditor of Public Accounts;

(19) By administrative regulation, amend the definition of high-cost conditions provided in Section 1 of this Act by adding other high-cost conditions;

(20) The department shall report to the Interim Joint Committee on Banking & Insurance the separation plan pursuant to Section 18 of this Act for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access on an annual basis; and

(21) Any other actions as may be necessary and proper for the execution of the department's powers, duties, and obligations under Sections 1 to 16 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department may, through itself or third parties:

(1) Exercise any and all powers granted to insurers under this chapter; and

(2) Sue or be sued.

SECTION 5. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be a licensed administrator by the department. The department shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:

(a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing,

utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;

(b) The total cost to administer Kentucky Access;

(c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;

(d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and

(e) A third-party administrator's financial condition and stability.

(2) The department may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the department on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the department may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.

(3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, case management, disease management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the department;

(b) Develop and establish policies and procedures for paying the agent referral fee under Sections 1 to 16 of this Act;

(c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:

1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that includes information relating to the proper billing of a claim and the types of claim forms to use;

2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and

3. Notification to an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;

(d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;

(e) Submit information to the department under KRS 304.17A-330;

(f) Submit reports to the department regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the department;

(g) Submit an annual report to the department three (3) months after the end of each calendar year. The annual report shall include:

1. Earned premium;

2. Administrative expenses;

3. Incurred losses for the year;

4. Paid losses for the year;

5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and

6. Any other information requested by the department or commissioner; and

(h) Be subject to examination by the department under Subtitles 2 and 3 of this chapter.

(4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between the department and the third-party administrator.

SECTION 6. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the department. Premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund.

(2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial premium rates for plan coverage shall not

exceed one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the department. In no event shall premium rates exceed one hundred seventy-five percent (175%) of the rates applicable to individual standard risks.

(3) Premium rates for coverage issued by Kentucky Access shall be established annually by the department, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least two (2) insurers for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in Section 1 of this Act.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on the date of application for coverage under Kentucky Access, substantially similar coverage under another individual, group, or association contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to October 1, 2000. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for group or association coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in Section 10 of this Act, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section may be terminated.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At least annually, the department shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.

(2) Except as provided in Section 10 of this Act, the department may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate resources for continued operation.

SECTION 9. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees which shall be similar to the health benefit plans currently being marketed to individuals in the individual market. One (1) plan shall be the standard health benefit plan, set forth in KRS 304.17A-250.

(2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed care form at such time as the Department can establish an appropriate provider network in available service areas.

(3) The department shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.

(4) The department shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the department may amend or replace the health benefit plans issued under Kentucky Access.

(5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.

(6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

(7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable except as otherwise specified in Section 8 of this Act and KRS 304.17A-240.

(8) All health benefit plans issued under Kentucky Access shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(9) Health benefit plans issued under Kentucky Access shall coordinate benefits with other health coverage and be the payor of last resort.

(10) Except for the standard health benefit plan specified in subsection (1) of this section, health benefit plans issued under Kentucky Access shall offer health coverage provided for in subsection (1) of this section up to-a lifetime limit of two million dollars ($2,000,000) per covered individual. The maximum limit under this subsection may be increased by the Department.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the other powers enumerated in Sections 1 to 16 of this Act, the department shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses incurred prior to September 30, 2002, and Kentucky Access.

(a) The amount of the assessment for each calendar year shall be as follows:

1. From each stop-loss carrier, an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, through December 31, 1998;

3. If determined necessary by the department, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and

4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period;

(b) The first assessment shall be for the period from January 1, 2000, through December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.

(2) Every supporting insurer shall report to the department, in a form and at the time as the department may specify, the following information for the specified period:

(a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

(b) Other information as the department may require.

(3) As part of the assessment process, the department shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.

(4) The Kentucky Access fund shall be funded from the following sources:

(a) Premiums paid by Kentucky Access enrollees;

(b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;

(c) Appropriations from the General Assembly;

(d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(e) Annual assessments from supporting insurers;

(f) A second assessment from supporting insurers;

(g) Gifts, grants, or other voluntary contributions;

(h) Interest or other earnings on the investment of the moneys held in the account; and

(i) Any funds remaining on October 1, 2000, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.

(5) The department shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The department shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year. The department shall assess insurers as follows:

(a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.

(b) If the amount of actual guaranteed acceptance program plan losses exceeds the assessment provided for in paragragh (a) of this subsection, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys received and available from the Kentucky Health Care Improvement Fund after the Department determines available funding for Kentucky Access for the current calendar year pursuant to subsection (6) of this section, shall be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. If the amount of GAP losses exceeds the amount in the Kentucky Health Care Improvement Fund after reserving sufficient funds for Kentucky Access for the current year, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the fund. Effective for any assessment on or after October 1, 2000, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.

(c) If GAP losses are fully covered by the assessment process provided for in under subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, and as determined by the department using reasonable actuarial principles Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall be completed.

(6) After the end of each calendar year, GAP losses shall be reimbursed only after the department determines that appropriate funding is available for Kentucky Access for the current calendar year. GAP losses shall be reimbursed after reserving sufficient funds for Kentucky Access.

(7) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the department shall calculate the net amount owed to or to be received from the fund, and the department shall only collect assessments for or make payments from the fund based upon net amounts.

(8) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.

(9) Insurers shall pay any assessment amounts authorized in Sections 1 to 16 of this Act within thirty (30) days of receiving notice from the department of the assessment amount.

(10) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.

(11) Assessments on health benefit plan premiums that are required under Sections 1 to 16 of this Act shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

(12) The department shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of Sections 1 to 16 of this Act. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.

(13) The department shall conduct examinations of insurers reasonably necessary to determine if the information provided by the insurers is accurate.

(14) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

(15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) After the end of each calendar year, a GAP participating insurer shall report the following information for the previous calendar year:

(a) The total earned premium in the individual, small group, large group, and association markets;

(b) The number of GAP policies in force as of December 31;

(c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;

(d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;

(e) The amount of the insurer's GAP losses; and

(f) Other information as the department may require to be reported.

(2) After the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of GAP premiums for all reporting insurers;

(c) The total amount of GAP claims paid by all reporting insurers;

(d) The amount of total actual GAP losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

(3) The department shall pay GAP losses to GAP participating insurers in accordance with this section and subsection (5) of Section 11 of this Act.

(4) The department shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 12. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health benefit plan issued to a GAP qualified individual under the GAP program shall be renewed at the option of the enrollee, except for reasons in KRS 304.17A-240.

(2) Except as required to implement Sections 1 to 16 of this Act, the Guaranteed Acceptance Program shall be terminated effective January 1, 2001.

SECTION 13. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Kentucky Access and the department shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 14. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and each subsequent regular session of the General Assembly thereafter, the department shall submit a written report to the Legislative Research Commission and provide a detailed briefing. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, and other information as the department deems necessary.

(2) Beginning no later than June 30, 2001, and annually thereafter, the Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research Commission and the Department of Insurance.

SECTION 15. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 16 of this Act.

(2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1;

(b) Subtitle 2;
(c) Subtitle 3;
(d) Subtitle 5;
(e) Subtitle 8;
(f) Subtitle 9;
(g) Subtitle 12;
(h) Subtitle 14;
(i) Subtitle 17;
(j) Subtitle 17A;
(k) Subtitle 25;
(l) Subtitle 38; and
(m) Subtitle 47.

Section 17. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals ***under KRS 304.17A-400 to 304.17A-480***;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program ***under KRS 304.17A-400 to 304.17A-480***;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who***, on or before December 31, 2000***:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer***, on or before December 31, 2000,*** that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, ***on or before December 31, 2000,*** provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" ***pursuant to the Kentucky Guaranteed Acceptance Program,*** means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be

established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 18. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of ***nine (9)***[~~seven (7)~~] members: the commissioner plus ***eight (8)***[~~six (6)~~] persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The ***eight (8)***[~~six (6)~~] persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; [~~and~~]

(c) Two (2) representatives of purchasers of health benefit plans***; and***

(d) Two (2) representatives of agents.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; [~~and~~]

(e) ***Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;***

(f) Review and discuss issues that impact Kentucky Access; and

(g) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. ***After January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Department for Kentucky Access and report to the commissioner any and all recommended changes.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 19. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate***, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001***.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***twenty***[~~ten~~] percent ***(20%)***[~~(10%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) [~~(a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with~~

~~rates determined in accordance with subsection (1) of this section.~~

~~(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:~~

~~1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;~~

~~2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and~~

~~3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.~~

~~(4)~~]The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate***, except that the premium rate charged to a small group or association shall not vary from the index rate by more than forty percent (40%) for two (2) consecutive years beginning January 1, 2001***.

(4)[~~(5)~~]The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***twenty***[~~fifteen~~] percent ***(20%)***[~~(15%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5)[~~(6)~~]In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6)[~~(7)~~]Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7)[~~(8)~~]The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, an insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(8)[~~(9)~~]For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9)[~~(10)~~] Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to

develop the insurer's index rate for its individual policies.

(10)~~[(11)]~~ Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 20. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of ~~[paragraphs (a) and (b) of]~~this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured***, except as provided in Sections 1 to 16 of this Act***.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program ***or to Kentucky Access,*** or to arrange for an individual employee to apply to ***either***~~[that]~~ plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under ***Section 11 of this Act***~~[KRS 304.17A-470]~~. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(6) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 21. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the ~~[individual or]~~small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200~~[and 304.17A-210]~~. ***As a condition of doing business in the individual market on or after January 1, 2001, a health insurer shall offer the standard health benefit plan.*** Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, [~~304.17A-210,~~]304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an ***applicant or*** insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program ***until October 1, 2000***, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program. ***On or after October 1, 2000, the denial letter shall include a description of Kentucky Access and the name and telephone number of a contact person who can provide additional information about Kentucky Access for any reason an insurer refuses to issue a policy.***

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 22. KRS 304.17A-260 is amended to read as follows:

An insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after ***the effective date of this Act***[~~April 10, 1998~~], until January 1, ***2001***[~~1999~~], for approval to reenter Kentucky, and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 163. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) All assessments placed on insurers under ***Section 11 of this Act***[~~KRS 304.17A-460~~];

(b) All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(c) All rate review requirements placed on insurers under this subtitle;

(d) All data collection requirements placed on insurers under this subtitle; and

(e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

Section 24. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and

(e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) [~~and 304.17A-280~~] and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative

regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 25. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers, shall submit a copy of the filing to the Attorney General, and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17A-460 ***ending December 31, 2000, and beginning January 1, 2001, and Section 11 of this Act***; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) ***Notwithstanding (2)(a) to (e) of this section, beginning January 1, 2001, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a***

minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. ***Beginning January 1, 2001, when determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims***

incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this Act, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

Section 26. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5) ~~[The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.~~

~~(6)~~] The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 27. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200 and 304.17A-210. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) ~~[The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.~~

~~(4)~~] Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(4)[~~(5)~~]Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(5)[~~(6)~~]Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(6)[~~(7)~~](a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.
2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.
3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;
2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and
3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(7)[~~(8)~~]All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(8)[~~(9)~~]All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(9)[~~(10)~~] Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(10)[~~(11)~~] A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(11)[~~(12)~~] Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the

Guaranteed Acceptance Program.

(12)~~[(13)]~~ If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(13)~~[(14)]~~ No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 28. KRS 304.17A-290 is amended to read as follows:

(1) Coverage of an individual who is not a state employee or a small group which on April 10, 1998, is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after April 10, 1998.

(2) The state employee health insurance fund established under KRS 18A.2281 shall be deemed an insurer as defined in KRS 304.17A-005 only for the coverage it provides to individuals not state employees or to small groups and only until such time as this coverage terminates in accordance with subsection (1) of this section.

(3) ~~[The state employee health insurance fund established under KRS 18A.2281 shall be subject to assessments and reimbursements under KRS 304.17A-400 to 304.17A-480 only for the premium collected and the claims paid for individuals who are not state employees and the small groups which are covered by the fund.~~

~~(4)]~~ Except as provided in this section, the state employee health insurance fund established under KRS 18A.2281 shall not be deemed an insurer for any other purpose in this chapter and, in no event, at any time more than twelve (12) months after April 10, 1998, shall it be deemed to be an insurer.

Section 29. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) ~~[All assessments placed on insurers under KRS 304.17A-460;~~

~~(b)]~~ All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(b)~~[(c)]~~All rate review requirements placed on insurers under this subtitle;

(c)~~[(d)]~~All data collection requirements placed on insurers under this subtitle; and

(d)~~[(e)]~~Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

Section 30. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 7 -- Investments;
(4) Subtitle 8 -- Administration of Deposits;
(5) Subtitle 12 -- Trade Practices and Frauds;
(6) Subtitle 25 -- Continuity of Management;
(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;
(9) Subtitle 4 -- Fees and Taxes;
(10) Subtitle 99 -- Penalties;

(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560; [~~and~~]

(12) Subtitle 17A -- Health Benefit Plans***; and***

(13) Subtitle 17B --Kentucky Access.

Section 31. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 6 -- Assets and Liabilities;

(7) Subtitle 7 -- Investments;

(8) Subtitle 8 -- Administration of Deposits;

(9) Subtitle 12 -- Trade Practices and Frauds;

(10) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(11) Subtitle 17A -- Health Benefit Plans;

(12) ***Subtitle 17B -- Kentucky Access;***

(13) Subtitle 25 -- Continuity of Management;

(14)[~~(13)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(15)[~~(14)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(16)[~~(15)~~] Subtitle 99 -- Penalties.

Section 32. The following KRS sections are repealed:

304.17A-210 Guaranteed-issue basis of individual market plans -- Guidelines -- Exceptions.

304.17A-280 Additions to high-cost conditions list -- Hearing.

304.17A-400 Guaranteed Acceptance Program -- Nondiscrimination in provider payment -- Participation by insurer as condition to do business.

304.17A-410 Definitions for KRS 304.17A-400 to 304.17A-480.

304.17A-420 Participating insurer -- Written notification of program status -- Program participating insurer requirements -- Exemptions.

304.17A-430 Criteria for program plan -- Alternative underwriting.

304.17A-440 Premium -- Limitations.

304.17A-450 Cost-containment feature requirement for program plans.

304.17A-460 Insurer annual reports -- Department calculations and notification to insurer -- Assessments and refunds -- Stop-loss carrier -- Examinations of participating insurers.

304.17A-470 Risk adjustment process -- Program account -- Funding -- Calculation of losses -- Assessments.

304.17A-480 Report to Legislative Research Commission -- Audit.

Section 33. Sections 8, 9, 10, 11, 12, 20, and 21 of this Act take effect January 1, 2001.

Section 34. Sections 24 to 31 of this Act take effect January 1, 2003.

Floor Amendment No. 3 to the Committee Substitute to **HB 920**, by Representative Wilkey:

On page 1, line 8, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 2, line 26, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 7, line 2, by deleting "***damages***" and inserting "***costs***" in lieu thereof;

On page 12, lines 17 through 22, by removing the brackets and strikethroughs; and

On page 12, at the beginning of line 17, by inserting "***(6)***", and by placing brackets and strikethroughs around "(8)";

On page 39, line 18, by inserting brackets around and striking through "subsection", and by deleting "***(2)(a) of***";

On pages 50 to 51, by deleting line 3 on page 50 through line 12 on page 51, and inserting the following in lieu thereof:

"SECTION 32. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks shall be paid, under subsection (5) of Section 1 and subsection (4) of Section 2 of this Act.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund. Money collected from each court cost by a circuit clerk under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act shall be disbursed as follows:

- ***(a) The first fifty-four dollars ($54) from each court cost shall be paid into the general fund;***
- ***(b) The next three dollars ($3) from each court cost shall be paid to the crime victims' compensation fund created in Section 11 of this Act;***
- ***(c) The next ten dollars ($10) from each court cost shall be paid to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;***
- ***(d) The next six dollars ($6) from each court cost shall be paid to the spinal cord and head injury research fund created in KRS 211.504;***
- ***(e) The next seven dollars ($7) from each court cost shall be paid to the traumatic brain injury trust fund as created in Section 31 of this Act;***
- ***(f) The next five dollars ($5) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, to be used for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners. The cabinet shall provide reports to the Administrative Office of the Courts stating the amounts paid to each county;***
- ***(g) The next ten dollars ($10) from each court cost shall be paid to the sheriff in the county in which each court cost was paid;***
- ***(h) The next two dollars ($2) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, for the purpose of paying expenses for the local jails, courthouses, bonds related to them and administration thereof; and***
- ***(i) The remaining three dollars ($3) from each court cost shall be paid to the trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries as provided for in KRS 30A.200.***

(3) Partial payments of each court cost shall be disbursed to each fund in the order set forth in subsection (2) of this section.

(4) The fees collected under KRS 30A.200(4) shall not apply to court costs collected under this section.";

On page 51, line 21, by deleting "***subsection (2)(a) of***"; and

On page 56, between lines 6 and 7, by inserting the following, and renumbering subsequent sections accordingly:

"Section 37. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

- (a) Two (2) members representing the University of Kentucky College of Medicine;
- (b) Two (2) members representing the University of Louisville School of Medicine;
- (c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;
- (d) One (1) member representing the Kentucky Medical Association; and
- (e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. [~~A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of~~

~~those terms.~~]

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health Services for administrative purposes.".

Floor Amendment No. 2 to **SB 247**, by Representative Wilkey:

On page 21, after line 7, by inserting the following;

"Section 17. KRS 243.720 is amended to read as follows:

(1) (a) There is levied upon the use, sale or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents ($0.12); and

(b) Notwithstanding the provisions of paragraph (a) of this subsection, distilled spirits placed in containers for sale at retail, where the distilled spirits represent six percent (6%) or less of the total volume of the contents of ***the***[~~such~~] containers, shall be taxed at the rate of twenty-five cents ($0.25) per gallon.

(2) There is levied upon the use, sale or distribution by sale or gift of wine, a tax of fifty cents ($0.50) on each gallon of wine, and a proportional rate per gallon on the wine used, sold or distributed in any container of more or less than one (1) gallon, but in no event shall the tax be less than four cents ($0.04) on the sale or distribution of any retail container of wine.

(3) [~~(a)~~]There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons[~~;~~

~~(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to three hundred thousand (300,000) barrels per annum~~].

(4) This section shall not apply to:

(a) Wine manufactured, sold, given away or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and 243.330 and purchased and used in the manner authorized by those licenses.

Section 18. KRS 243.730 is amended to read as follows:

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.[~~ The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer.~~] If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.

(c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth. ***The***[~~Such~~] liability shall not be extinguished until the tax has been paid to the Revenue Cabinet.

(e) Notwithstanding the provisions of subsection 1(a) of this section, every owner of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the Revenue Cabinet. In order to so qualify, each wholesaler shall furnish to the Revenue Cabinet a certified copy of the bond required to be filed with the Cabinet of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

(3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the Revenue Cabinet in such manner as the cabinet may require.

(4) The cabinet shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the cabinet and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the Revenue Cabinet of all malt beverage taxes due, with penalties and interest.

Section 19. KRS 243.110 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 ***and 243.040*** shall be inconsistent with every other kind listed in ***each respective***[~~that~~] section ***if the license relates to a different tier in the production, distribution, and sale system,*** and no person holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.

(2) The holder of a retail package license may also hold either a retail drink license or a special nonindustrial alcohol license. The holder of a transporter's license may also hold a special storage or warehouse license. The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license. The holder of a distiller's license may also hold a rectifier's license, a special industrial alcohol license or a vintner's license, and a souvenir retail liquor license. The holder of a farm winery and a small winery license may exercise all functions of ***the***[~~such~~] license as authorized by KRS 243.155 and 243.156. A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same person or corporation.

(3) Any person may hold two (2) or more licenses of the same kind.

(4) An applicant shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license under the cloak of a separate corporate entity. The state administrator may examine [~~into ~~]the ownership and management of corporations which apply for or hold licenses, and shall deny the application for a license to any party substantially interested in an incompatible license.".

Floor Amendment No. 1 to **HB 939**, by Representative Heleringer:

On page 11, at line 4, after the number "***(6)***", by inserting "***If adequate and appropriate agency funds are available,***"; and

On page 35, at line 14, after the letter "***(c)***", by inserting "***If adequate and appropriate agency funds are available to implement this subsection,***"; and

On page 35, at line 14, by deleting the word "*is*" and inserting "***shall be***" in lieu thereof.

Floor Amendment No. 20 to the Committee Substitute to **HB 502**, by Representative Moberly:

On page 11, line 16, delete "forty-one" and insert "forty"; and

On page 56, line 24, delete "General Fund" and insert "Restricted Funds";

On page 91, after line 15 and before line 16 by inserting:

"f. LaGrange Communications Tower
General Fund 175,000
g. Hazard Communications Tower
General Fund 200,000" (insert both into FY 2000-2001 column); and

On page 99, line 11, delete "1,000,000" and insert "($1,000,000)" in fiscal year 1999-2000; and

On page 156, line 27, by deleting the number "280,000" and inserting the number "105,000"; and

On page 157, line 2, by deleting the number "30,000" and inserting the number "43,000"; and

On page 157, after line 4 and before line 5, by inserting the following,

"bq. Telecommunications Training Center
Bond Funds 32,000
br. Crittenden County Ambulance
Bond Funds 30,000
bs. Crittenden/Livingston Water
Bond Funds 100,000"; and

On page 161, line 21, by deleting the words "City of Henderson Building Purchase", and inserting the words "Henderson County Technology Center"; and

On page 166, by deleting lines 7, 8, and 9 in their entirety; and

On page 166, after line 19 and before line 20, by inserting the following,

"fx. Sacramento Battlefield
Bond Funds 50,000
fy. McLean County Senior Citizens Center
Bond Funds 25,000
fz. Calhoun Fire Department Building
Bond Funds 50,000"; and

On page 170, line 14, by deleting the number "50,000" and inserting the number "35,000", and

On page 170, after line 14 and before line 15, by inserting the following,

"hm. Webster County Fire Departments
Bond Funds 150,000
hn. Slaughters Fire Department - New Truck
Bond Funds 50,000
ho. City of Clay - Equipment Replacement
Bond Funds 40,000
hp. City of Providence Youth Program
Bond Funds 20,000
hq. City of Wheatcroft - Caboose Restoration
Bond Funds 5,000"; and

On page 174, line 16, after the word, "Commission", by inserting the phrase " - Civil War Site"; and

On page 174, line 18, by deleting the phrase "Civil War Site", by inserting the phrase " - Clark County YMCA - Program Expansion"; and

On page 181, line 14, after the word "Crescent", by inserting the word "Park"; and

On page 181, line 18, deleting the word "Cruler", by inserting the word "Crisler"; and

On page 181, line 26, deleting the word "Hils", by inserting the word "Hills"; and

On page 186, line 5, deleting the number "450,000", by inserting the number "500,000"; and

On page 196, line 3, deleting the number "300,000", and inserting the number "175,000", and

On page 196, by deleting lines 6 and 7 in their entirety; and

On page 213, line 26, deleting the number "50,000", and

On page 222, line 6, deleting the project identifier "ar", by inserting project identifier "ao"; and

On page 281, line 17, by deleting the word "Kentucky"; and

On page 281, line 18, by deleting the word "Agricultural" and inserting the word "Rural", and by deleting the word "office" and inserting the word "Office"; and

On page 177, line 14, delete "Green" and insert "Greenup"; and

On page 177, line 15, delete "Green" and insert "Greenup"; and

On page 188, after line 2 and before line 3, insert "Owen County"; and

On page 195, line 18, delete "BRACH" and insert "BRANCH"; and

On page 275, after line 7 and before line 8, by inserting the following:

" The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the Department for Facilities Management in the Finance and Administration Cabinet. The Department is authorized to expend any proceeds acquired from the sale, transfer, or other disposition of the existing Department for Employment Services facilities toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet."; and

by renumbering the section and provisions, and by renumbering and adjusting totals and subtotals accordingly.

Floor Amendment No. 21 to the Committee Substitute to **HB 502**, by Representative Heleringer:

On page 233, after line 4, by inserting the following:

" 34. For the taxable years beginning after December 31, 1999, and before January 1, 2002, a nonrefundable credit against the tax imposed by KRS 141.020 in an amount equal to 50% of the tuition paid, not to exceed $300, shall be allowed for resident individuals if adjusted gross income, computed on the basis of combined adjusted gross income, does not exceed $50,000 and if one or more dependents attends a nonpublic elementary or secondary school operating according to state law. In no event shall a deduction be allowed under KRS Chapter 141 for any amounts paid for which a credit permitted under this section is claimed. For taxable years beginning after December 31, 2000, the amount of the credit and the adjusted gross income shall be indexed for the consumer price index. Funding shall be provided from the budget reserve trust fund established under KRS 48.705.".

Floor Amendment No. 22 to Committee Amendment No. 2 to the Committee Substitute to **HB 502**, by Representative Anderson:

On page 3, 18 lines from the top, delete "Green County Projects" and insert the following "in addition to any other appropriations provided in this Act for Greenup County the following projects are";

On page 3, 18 lines from the top, after the amount of "$150,000" insert "and are to be allocated to the City of Russell for Water, Sewer, Roads, Public Safety, and Parks in the amount of $50,000; the City of Southshore for Water, Sewer, Roads, Public Safety, and Parks in the amount of $10,000; the City of Raceland for Water, Sewer, Roads, Public Safety, and Parks in the amount of $10,000; the City of Worthington for Water, Sewer, Roads, Public Safety, and Parks in the amount of $10,000; the City of Wurtland for Water, Sewer, Roads, Public Safety, and Parks in the amount of $10,000; the Greenup County Fiscal Court for Addington Ball Field Road in the amount of $10,000; the Greenup County Fiscal Court for the fairgrounds in the amount of $10,000; and the City of Flatwoods for the Athletic Complex in the amount of $40,000.".

Floor Amendment No. 23 to Committee Amendment No. 1 to the Committee Substitute to **HB 502**, by Representative Moberly:

On page 1, line 9, delete "11,631,200" and insert "5,531,200", and delete "11,632,200" and insert "5,532,200"; and

On page 1, line 10, delete "209,000" and insert "8,286,600", and delete "209,000" and insert "8,286,600"; and

On page 1, line 11, delete "11,840,200" and insert "13,817,800", and delete "11,841,200" and insert "13,818,800"; and

On page 5, line 16, delete "66,916,800" and insert "65,615,700", and delete "71,583,100" and insert "70,741,400"; and

On page 5, line 17, delete "90,870,200" and insert "89,569,100", and delete "94,402,300" and insert "93,560,600"; and adjust the subtotals and totals accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 850**, by Representative Tapp:

On page 14, between lines 23 and 24 by inserting the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "cooperative education" means a secondary school educational program consisting of in-school instruction alternating with on-the-job work experience in a business or industrial establishment, supervised by the school and employer to ensure that each phase contributes to the student's educational and career objectives.

(2) The Kentucky Board of Education, in consultation and cooperation with the Department for Technical Education in the Cabinet for Workforce Development, shall promulgate administrative regulations to establish standards for cooperative education programs provided by school districts, secondary area vocational education and technology centers, or other education entities. The standards for cooperative education programs shall include, but not be limited to, the following:

(a) A student shall be enrolled in a related preparatory educational subject;

(b) A student shall have successfully completed the basic skills prerequisites required by the preparatory program he or she is pursuing, and gained sufficient knowledge and skill necessary for success in a cooperative education program;

(c) The cooperative education program shall be an integral part of the school's program of studies and be described in the school catalog;

(d) The work experience component of the program shall supplement the planned program of in-school instruction;

(e) A student may receive course credit only for work experience directly related to the student's educational program and approvable under the Program of Studies for Kentucky Schools;

(f) A student shall be permitted to be excused from school attendance only for the purpose of participating in an approved cooperative education program activity. If a student is working with a participating employer at a time other than during the regular school day, the student shall not be excused from school attendance during the regular school day;

(g) The school shall arrange and coordinate with the employer for on-the-job training, and a training plan agreement signed by the school, student, parent, and employer shall be placed on file with the school;

(h) A student shall receive a salary for the work experience phase of instruction in accordance with local, state, and federal minimum wage requirements;

(i) Requirements for cooperative education teacher coordinators;

(j) Age requirements for students; and

(k) The program shall include an evaluation component to assess the effectiveness of the program in assisting students in the achievement of their educational and career goals.";

On page 14, line 24 after "Section" by deleting "7." and inserting "8." in lieu thereof;

On page 15, line 18 after "Section" by deleting "8." and inserting "9." in lieu thereof;

On page 16, line 7 after "Section" by deleting "9." and inserting "10." in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 57:	Representatives Crenshaw, Hoffman
HB 221:	Representatives Colter, Palumbo
HB 821:	Representative Bather
HB 844:	Representative Riggs
HJR 134:	Representatives Ballard, Branham, C. Belcher, Crenshaw, Palmer, Siler, Tapp, Weaver, Worthington, Yonts
HCR 139:	Representative Colter

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 569: Representative Bather

HJR 134: Representatives Bowling, Geveden, Napier

Announcements

The following meeting was announced:

Health and Welfare, March 15, 2000, 1:00 p.m., Room 131

The following meeting was canceled:

Labor and Industry, March 15, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 15, 2000.

The motion that the House adjourn until 2:00 p.m., March 15, 2000, was adopted by voice vote.

MARCH 15, 2000

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Wilkey.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 14, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Ausmus moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ausmus moved the adoption of the following **Legislative Citation No. 114**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the representatives of the Bell County Historical Society who are paid most ardent tribute upon visiting the Chambers of the House of Representatives as part of their 250th Anniversary celebration of Dr. Thomas Walker's expedition into the wilderness frontier that is now the Commonwealth of Kentucky. Crossing over the Cumberland River and through Cumberland Gap in 1750, this renowned physician and explorer's expedition will be officially celebrated throughout the Commonwealth on April 15, 2000, which has been proclaimed by Governor Paul E. Patton as Thomas Walker Day. Visiting today are members of the Bell County Historical Society; distinguished author David Burns, who has contributed greatly to this anniversary celebration; and students from the Bell County area, who are commended for their scholastic achievements in history and for their participation in the Dr. Thomas Walker anniversary celebration. The members of this distinguished body are honored to join Representative Dr. J.C. (Bo) Ausmus III in welcoming these dedicated members and representatives of the Bell County Historical Society on this occasion and in extending best wishes as they commemorate Dr. Thomas Walker and this significant historical event. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 114 was adopted without objection.

Representative Hoffman moved to grant floor privileges to former member Bill Henry. Agreed.

Introduction of Resolutions

HR 155, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joseph H. Silvestri.

HR 156, by Representatives Crimm and Riggs: A RESOLUTION requesting a study of the local insurance premium tax and its collection.

HR 157, by Representative Graham: A RESOLUTION adjourning the House of Representatives in honor of Mrs. Caroline Crittenden.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 293, SJR 114**

Banking and Insurance: **SB 195, SB 341**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **SB 4**

Health and Welfare: **SB 267, SB 324, SB 330**

Labor and Industry: **SB 382**

Licensing and Occupations: **SB 308**

Natural Resources and Environment: **SB 409**

Transportation: **SB 292, SB 398, SJR 104, SJR 110**

Report of Committees

The Committee on Education reported **SB 1, SB 46, SB 53, SB 76, SB 125, SB 143, SB 221, SB 236, SB 240, SB 259, SB 265,** and **SB 287** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 1, AN ACT relating to adult education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The General Assembly recognizes that many adults need significant improvement in their knowledge and skills to be full participants in Kentucky's workforce and society, to develop and maintain healthy families, and to continue their education and training as necessary throughout their lifetimes. The General Assembly also recognizes that:

(1) Adult illiteracy is a fundamental barrier to every major challenge facing Kentucky, including early childhood education, education reform, economic development, and improving the health and well-being of Kentucky's families and communities;

(2) Kentucky must be committed to addressing the low level of education of the adult population from all dimensions of state and local government, all education institutions, business and civic leaders, voluntary organizations, and all others that interact with the problem of adult illiteracy; and

(3) Kentucky must have a multi-faceted strategy to address the diverse needs of the undereducated adult population in all counties and regions of the state.

Section 2. KRS 164.003 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly-trained workforce;

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average; and

(c) The positive advancement of the welfare of the citizens of the Commonwealth through the transmission of knowledge can only be achieved by the incorporation of ethical standards, the historic American moral principles promoted by the nation's Founding Fathers, into Kentucky public instruction, state educational training, and personal development of its teachers, students, and people, and affirms President George Washington's statement in his September 19, 1796, farewell address: "Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable."

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally recognized metropolitan research university at the University of Louisville;

(d) Regional universities, with at least one (1) nationally recognized program of distinction or one (1) nationally recognized applied research program, working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that assures, in conjunction with other postsecondary institutions, access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of ***providers***[~~autonomous institutions~~] that delivers educational services to ***all adult*** citizens in quantities and of a quality that is comparable to the national average ***or above and significantly elevates the level of education of the adults of the Commonwealth***.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education ***and adult education*** in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities***,***[~~ and~~] the Kentucky Community and Technical College System***, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education and Literacy***. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and

Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

(22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under KRS 164.013;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;~~[and]~~

(33) ***Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, under the provisions of Section 4 of this Act for raising the knowledge and skills of the state's adult population. The council shall:***

  (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;

  (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

  (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

  (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law; and

  (e) Administer the adult education and literacy initiative fund created under Section 7 of this Act; and

(34) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 4. KRS 164.0203 is amended to read as follows:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term objectives in furtherance of the long-term goals established in KRS 164.003(2).

(2) (a) The purpose of the strategic agenda is to further the public purposes under KRS 164.003 by creating high-quality, relevant, postsecondary education ***and adult education*** opportunities in the Commonwealth. The strategic agenda shall:

  1. Serve as the public agenda for postsecondary education ***and adult education*** for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

  2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions ***and providers*** that serve them; and

  3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

  (b) The council shall develop a strategic implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.

(3) The framework for the strategic implementation plan of the strategic agenda shall include the following elements:

- (a) A mission statement;
- (b) Goals;
- (c) Principles;
- (d) Strategies and objectives;
- (e) Benchmarks; and
- (f) Incentives to achieve desired results.

(4) The implementation plan for the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of Kentucky's employers.

(5) The council shall develop benchmarks using criteria that shall include, but not be limited to:

- (a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;
- (b) Comparison of regions and areas within the Commonwealth and comparisons of the Commonwealth to other states and the nation; and
- (c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in KRS 164.095.

(6) The council shall review the goals established by KRS 164.003(2) at least every four (4) years and shall review its implementation plan at least every two (2) years.

(7) In developing the strategic agenda, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda and strategic implementation plan, the council shall distribute copies to each local school district.

(8) The strategic agenda shall include a long-term strategy, developed in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of Kentucky's adult population, and ensuring lifelong learning opportunities for all Kentucky adults, drawing on the resources of all state government cabinets and agencies, business and civic leadership, and voluntary organizations.

Section 5. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education***, in consultation with the Department for Adult Education and Literacy,*** shall ***assess the need for technical assistance, training, and other***[~~ establish regional advisory groups and shall provide necessary staff~~] support to assist in the development of ***adult education and***[~~ regional strategies for~~] workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The ***council shall promote the involvement of***[~~regional advisory groups shall be encouraged to:~~

~~(1) Involve~~] universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives[~~ from regional and state labor market areas~~]; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies[~~; and~~

~~(2) Assist with an annual review of progress toward the regional strategies~~].

Section 6. KRS 151B.120 is amended to read as follows:

(1) The commissioner of the Department for Adult Education and Literacy and the commissioner of the Department for Technical Education may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the ***secretary of the Workforce Development Cabinet***[~~State Board for Adult and Technical Education at its next regularly scheduled meeting~~] and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate commissioner. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) Each commissioner may approve authorization for his department to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

- (a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;
- (b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and
- (c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 7. KRS 151B.142 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) There is created in the ***Council on Postsecondary Education***[~~Department of Adult Education and Literacy of the Cabinet~~

~~for Workforce Development~~], a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. ***Moneys accumulated in this fund on the effective date of this Act shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.***

(2) The purpose of the adult education and literacy initiative fund shall be to ***support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities***[~~provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for Adult Education and Literacy~~].

(3) The council, in collaboration with the Department for Adult Education and Literacy, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the Department for Adult Education and Literacy and as compatible with funds provided under Title II of the Federal Workforce Investment Act;

2. A statewide competency-based certification for transferable skills in the workplace; and

3. A statewide public information and marketing campaign.

Section 8. KRS 151B.023 is amended to read as follows:

(1) The Department for Adult Education and Literacy is hereby created ***to carry out the statewide mission on adult education. The department shall implement the twenty (20) year state strategy to reduce the number of adults at the lowest levels of literacy and most in need of adult education and literacy services.***

(2) The Department for Adult Education and Literacy shall be[~~and is~~] attached to the Cabinet for Workforce Development ***for administrative purposes to coordinate adult education services***. The Department for Adult Education and Literacy shall be composed of the Division of Program Services, the Division of Workforce Investment, and the Division of Management Services. Each division shall be headed by a director appointed by the commissioner of the Department for Adult Education and Literacy, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Adult Education and Literacy as set forth by administrative order.

(3)[~~(2)~~]The Department for Adult Education and Literacy shall be headed by a commissioner. The appointment of the commissioner shall be made ***by***[~~from a list of three (3) names submitted by the State Board for Adult and Technical Education to~~] the secretary of the Cabinet for Workforce Development ***with the approval of***[~~and~~] the Governor.[~~ The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor.~~] The commissioner shall have general supervision and direction over all functions of the department and its employees and shall be responsible for carrying out the programs and policies of the department.[~~ The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education.~~] The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned to the department.

(4)[~~(3)~~]The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of programs and services in adult education and literacy. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared-cost basis or on a total cost recovery basis. The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5)~~[(4)]~~The Department for Adult Education and Literacy shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for adult education and literacy.~~[The department shall be under the jurisdiction of the State Board for Adult and Technical Education for all appropriate purposes under this chapter.]~~ All appropriate rights, responsibilities, and benefits under this chapter governing adult education and literacy personnel and programs shall apply to the Department for Adult Education and Literacy.

(6)~~[(5)]~~The commissioner shall, from time to time, prepare or cause to be prepared~~[, and submit for approval and publication by the State Board for Adult and Technical Education,]~~ any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult education and literacy.

(7)~~[(6)]~~The department***, in consultation with the Council on Postsecondary Education,*** shall prepare a biennial budget request ***consistent with the statewide mission on adult education***~~[and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification]~~.

Section 9. KRS 151B.405 is amended to read as follows:

As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

(1) "Adult education" means ***for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals***~~[literacy, adult basic, adult secondary, and GED services and instruction below the college level, pursuant to the National Literacy Act, Public Law 102-73, for adults who are not required to be enrolled in school]~~:

(a) ***Who have attained the age of sixteen (16) years of age;***

(b) Who are not enrolled ***or required to be enrolled*** in secondary school ***under state law***~~[nor have a certificate of graduation from a school providing secondary education]~~; ***and***~~[or]~~

(c)~~[(b)]~~ ***Who:***~~[Have not achieved an equivalent level of education; or]~~

1.~~[(c)]~~ Lack sufficient mastery of basic educational skills to ***enable the individuals to*** function effectively in society;~~[or]~~

2.~~[(d)]~~ Are unable to speak, read, or write the English language~~[with sufficient proficiency to get or retain employment commensurate with their real abilities]~~; ***or***

3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;

(2) ***"Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in Section 11 of this Act***~~["GED" means General Educational Development]~~; and

(3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

Section 10. KRS 151B.410 is amended to read as follows:

(1) The Department for Adult Education and Literacy shall ***promulgate necessary administrative regulations and*** administer ***a statewide***~~[an]~~ adult education ***and literacy***~~[learning]~~ system ***throughout***~~[in regions of]~~ the state. The adult education ***and literacy*** ~~[learning]~~system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical ***colleges***~~[schools]~~, community colleges, regional universities, adult education centers, ***public schools, libraries,*** family resource centers, adult correctional facilities,~~[and]~~ other institutions***, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need***.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education ***and literacy***~~[learning]~~ system may include~~[; the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation, Job Opportunities and Basic Skills program; adult technical education; community college system; Parent and Child Education programs;]~~ student scholarship and grants; fees for services rendered; and other general, agency, local, ***state,*** federal, and private funds.

(2) Services included as part of the adult education ***and literacy***~~[learning]~~ system shall include, but not be limited to ~~[:~~

~~(a)~~]functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills[~~;~~

~~(b) Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;~~

~~(c) Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;~~

~~(d) Family literacy programs that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act, and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills, and parent-child interactive activities; and~~

~~(e) English as a second language programs for adults who have limited English proficiency.~~

~~(3) (a) The Department for Adult Education and Literacy within the Cabinet for Workforce Development may establish regional adult education advisory committees, representing adult education practitioners, state vocational technical and community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.~~

~~(b) The adult education advisory committees shall meet at least twice a year to:~~

~~1. Advise the Department for Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;~~

~~2. Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;~~

~~3. Report the number and location of entrance points that have identified an adult population who has been referred for service; and~~

~~4. Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion~~].

(3)[~~(4)~~]In administering an adult education ***and literacy*** system, the Department for Adult Education and Literacy shall:

(a) ***Assist providers with the development of***[~~Establish regions for purpose of implementing an adult education learning system assisting local programs;~~

~~(b) Make provision for~~] quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including ***high school equivalency diploma***[~~GED~~] preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(b)[~~(c)~~]***Provide***[~~Develop student~~] assessments ***of each student's skill and competency level***[~~in coordination with other educational and employment entities,~~] allowing assessments to be shared ***with other educational and employment entities*** when necessary ***for providing***[~~with appropriate personnel for accessing students,~~] additional educational programs, taking into consideration student confidentiality;

(c)[~~(d)~~]***Assist adult educators to meet***[~~Establish~~] professional ***standards***[~~credentials for instructors, and make provision for the development of those providers who have not attained the established credentials;~~

~~(e) Develop criteria for certifying adult education providers~~];

(d)[~~(f)~~] ***Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;***

(e) Develop administrative regulations[~~ for consideration by the Cabinet for Workforce Development and the State Board for Adult and Technical Education,~~] including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(f)[~~(g)~~] Require and monitor compliance with ***the department's***[~~Cabinet for Workforce Development~~] administrative regulations and policies; and

(g)[~~(h)~~]Develop and implement performance measures and benchmarks.

Section 11. KRS 158.360 is amended to read as follows:

(1) The[~~ State Board for Adult and Technical Education shall approve grants and authorize the~~] Department for Adult Education and Literacy ***shall provide technical assistance to providers to develop family literacy services***[~~to disburse funds to selected local educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence Programs. The Department for Adult Education~~

~~and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program~~].

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services[~~;~~

~~The programs may operate on a year-round basis. The programs may also be blended with other programs as long as all criteria in this subsection are met.~~

~~(3) Eligible participants shall be those parents who are sixteen (16) years of age or older, not enrolled in a regular secondary school program, and who do not possess a high school credential, or who have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years.~~

~~(4) Priority in the selection of grant awards shall be based on the county's low level of literacy in the adult population, high numbers of unemployed, and high levels of poverty.~~

~~(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program~~].

SECTION 12. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

(1) The Department for Adult Education and Literacy in conjunction with the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include, but not be limited to, the criteria for:

(a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;

(b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;

(c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.

(2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars ($250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

(b) The department, with the cooperation of the Council on Postsecondary Education, shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.

(3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state income tax credit for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the Department for Adult Education and Literacy and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars ($1250).

Section 13. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

(1) "Applicant" means an educational institution, and business or industry that has made joint application for a grant-in-aid as authorized by KRS 154.12-205 to 154.12-208;

(2) "Board" means the board of directors of the Bluegrass State Skills Corporation;

(3) "Business and industry" means a private corporation, limited liability company, registered limited liability partnership,

institution, firm, person, group, or other entity or association of the same, concerned with commerce, trade, manufacturing, or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth***, or any company whose primary purpose is the sale of goods at retail, if specific funds for grants-in-aid to retail business and industry are appropriated by the General Assembly***;

(4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;

(5) "Educational institution" means a public or nonpublic secondary or post-secondary institution or an independent ***provider***[~~institution~~] within the Commonwealth authorized by law to provide a program of skills training or education[~~ beyond the secondary school level~~];

(6) "Grant-in-aid" means funding that is provided to an educational institution and business and industry by the BSSC for the development or expansion of a program as provided in this chapter;

(7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:

(a) Classroom instruction;

(b) Classroom-related field, shop, factory, office, or laboratory work; and

(c) ***Basic skills,*** entry level training, job upgrading, retraining, and advance training.

(8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

Section 14. KRS 154.12-2084 is amended to read as follows:

As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

(1) "Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the authority to receive skills training investment credits in accordance with KRS 154.12-2084 to 154.12-2089;

(2) "Approved costs" means:

(a) Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(b) Administrative fees charged by educational institutions in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company and specifically approved by the Bluegrass State Skills Corporation;

(c) The cost of supplies, materials, and equipment used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(d) The cost of leasing a training facility where space is unavailable at an educational institution or at the premises of an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

(e) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and

(f) All other costs of a nature comparable to those described in this subsection;

(3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation created by KRS 154.12-205;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent ***provider***[~~institution~~] within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level ***or to adult persons without a high school diploma or its equivalent***;

(6) "Employee" means any person:

(a) Who is currently a permanent full-time employee of the qualified company; and

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify

the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal entity through which business is conducted that has been actively engaged in any of the following qualified activities within the Commonwealth for not less than three (3) consecutive years: manufacturing, including the processing, assembling, production, or warehousing of any property; processing of agricultural and forestry products; telecommunications; health care; product research and engineering; tool and die and machine technology; mining; tourism and operation of facilities to be used in the entertainment, recreation, and convention industry; and transportation in support of manufacturing. Notwithstanding the provisions of this subsection, any company whose primary purpose is the sale of goods at retail shall not constitute a qualified company;

(10) "Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment including, but not limited to, technical and interpersonal skills training, and training that is designed to enhance the computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas***, are unable to advance on the job,*** or who risk displacement because their skill deficiencies inhibit their training potential for new technology; and

(11) "Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

Section 15. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay ***for:***

1. Alternative programs for students who are at-risk of dropping out of school before achieving a diploma; and

2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);

4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 16. The following KRS sections are repealed:

151B.0235 State Advisory Council for Adult Education and Literacy.

151B.140 Statewide adult literacy program.

SB 46, AN ACT relating to school-based decision making councils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) ~~[By January 1, 1991,]~~Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and

158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. ***A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative***~~[The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor]~~ shall ***not***~~[they]~~ be a local board member or ***a board member's***~~[his]~~ spouse. ***The central office restriction shall not apply to a substitute teacher or bus driver.*** None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) ***Each school shall have a school-based decision making council, except***~~[After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section.]~~ upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based

decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 53, AN ACT relating to education finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7891 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

(a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

(c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

(d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.

(4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between*:*

(a) The ***average of the*** prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine*;* and

(b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the amount of the scholarship awarded.

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.

(b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.

(c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

(12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.

(13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

SB 76, AN ACT relating to school-based decision making councils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. ***A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative***~~[The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor]~~ shall ***not***~~[they]~~ be a local board member or ***a board member's***~~[his]~~ spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the

number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council***, consistent with subparagraph (2)(i)(10) of this section***. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;~~[and]~~
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal***; and***
10. ***Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation.***

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 125, AN ACT relating to the Kentucky Educational Excellence Scholarship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test ***at a national test site on a national test date*** or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6)[~~ "Commonwealth merit scholarship" means a scholarship provided to an eligible student to attend a participating institution;~~

~~(7) "Commonwealth merit scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;~~

~~(8) "Commonwealth merit scholarship trust fund" means the Wallace G. Wilkinson Commonwealth merit scholarship trust fund;~~

~~(9)~~] "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7)[~~(10)~~] "Eligible ***high school*** student" means any person who is a ***citizen, national, or permanent resident of the United States and*** Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky Educational Excellence Scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(9)[~~(11)~~] "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10)[~~(12)~~] "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11)[~~(13)~~] "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" means Kentucky Educational Excellence Scholarship;

(13) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(14) "Kentucky Educational Excellence Scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(15) "Kentucky Educational Excellence Scholarship Trust Fund" means the Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund;

(16)[~~(14)~~] "Maximum award amount" means the sum of the[~~ proportionate~~] base scholarship amount earned by an eligible ***high school*** student in each academic year of high school study ***plus***[~~and~~] any supplemental award earned by an eligible ***high school*** student ***or earned pursuant to KRS 164.7879(3)(c)***. The amount so determined shall be the maximum amount available to the eligible ***postsecondary*** student for any award period;

(17)[~~(15)~~] "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(18)[~~(16)~~] "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(19)[~~(17)~~] "Supplemental award" means commitment of[~~ additional~~] scholarship funds under KRS 164.7879(3)[~~ to an eligible student based on the eligible student's ACT score~~].

Section 2. KRS 164.7877 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson ***Kentucky Educational Excellence***[~~Commonwealth Merit~~] Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with KRS 154A.130; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.

(2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in KRS 164.7871 to 164.7885 and KRS 164.7889.

(3) The council shall administer the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship trust fund. Upon the approval of the council, the authority may expend funds from the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship trust fund that are necessary and reasonable to meet the expenses of administering the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship[~~ trust fund~~].

Section 3. KRS 164.7879 is amended to read as follows:

(1) ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship awards shall be based upon an established base scholarship amount and an eligible ***high school*** student's grade point average. The base scholarship amount for students attaining a grade point average ***of at least***[~~between~~] 2.5[~~ and 4.0~~] for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.***00***[~~50~~]	3.60	$400.00
2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.***00***[~~50~~]
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.***00***[~~50~~]		

The council shall review the base amount of the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) The authority shall commit to provide to each eligible ***high school*** student the base amount of the Commonwealth merit scholarship for each academic year of high school study in the Commonwealth merit scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible ***high school*** student, regardless of any subsequent increases made to the base amount of the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] scholarship through the promulgation of an administrative regulation by the council.

(3) (a) The authority shall commit to provide to each eligible ***high school*** student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible ***high school*** student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236

19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible ***high school*** students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible ***high school*** student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who ***are citizens, nationals, or permanent residents of the United States and who*** graduate from a nonpublic ***secondary***[~~high~~] school not certified by the Kentucky Board of Education and Kentucky residents ***who are citizens, nationals, or permanent residents of the United States and*** who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Section 4. KRS 164.7881 is amended to read as follows:

(1) [~~Every~~]Eligible ***high school students***[~~student~~] who ***have***[~~has~~] graduated from high school ***and eligible postsecondary students***[~~and~~] who ***have***[~~has~~] earned a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship,[~~ or~~] a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship and a supplemental award, ***or a supplemental award only pursuant to KRS 164.7879(3)(c),*** shall be eligible to receive the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship,[~~ or~~] the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] scholarship and the supplemental award, ***or a supplemental award only*** for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.

(2) To receive the ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship***,***[~~ or~~] a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship and supplemental award, ***or a supplemental award only,*** an eligible ***high school or postsecondary*** student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship or a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship***,***[~~ or~~] a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship and supplemental award***, or a supplemental award only,*** for a cumulative total of eight (8) academic terms if the student enrolls ***as at least a part-time student***[~~full-time~~] in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible ***postsecondary*** student for an award period shall be disbursed by the authority to the eligible ***postsecondary*** student in two (2)[~~ equal~~]

installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible ***postsecondary*** student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible ***postsecondary*** student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible ***postsecondary*** student.

(c) 1. An eligible ***postsecondary*** student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible ***postsecondary*** student shall have ***at least*** a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible ***postsecondary*** student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible ***postsecondary*** student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

3. Any eligible ***postsecondary*** student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each ***Kentucky Educational Excellence Scholarship recipient***~~[eligible student]~~ enrolled as a full-time or part-time student at the participating institution.

5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) An eligible ***postsecondary*** student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the ***Kentucky Educational Excellence***~~[Commonwealth merit]~~ Scholarship,~~[or]~~ the ***Kentucky Educational Excellence***~~[Commonwealth merit]~~ Scholarship and the supplemental award***, or the supplemental award only*** for a maximum of ten (10) academic terms. The expiration of an eligible ***postsecondary*** student's five (5) year eligibility shall be extended to six (6) years for eligible ***postsecondary*** students meeting the requirements of this subsection.

(7) Each eligible ***high school*** student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "***Senator*** Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District***, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement***.

Section 5. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all ***high school***~~[eligible]~~ students during the academic year. The list shall identify the high school and shall contain each ***high school***~~[eligible]~~ student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. ***The list need not contain the ACT score if the authority receives the ACT score directly from the testing services.*** The authority shall notify each eligible ***high school*** student of his or her ***Kentucky Educational Excellence***~~[Commonwealth merit]~~ Scholarship award earned each academic year. The authority shall determine the final ***Kentucky Educational Excellence***~~[Commonwealth merit]~~ scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible ***high school*** student of the final determination. The authority shall make available a list of eligible ***high school and postsecondary*** students to participating institutions.

(2)~~[Not later than January 30, 1999, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky~~

~~Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's projected Commonwealth merit scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected Commonwealth merit scholarship and supplemental award amount.~~

~~(3)~~] The authority shall provide data access only to participating institutions that have either received an admission application from an eligible ***high school or postsecondary*** student or have been listed by the eligible ***high school or postsecondary*** student on the Free Application For Federal Student Aid.

(3)[~~(4)~~]For each eligible ***postsecondary*** student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship***,*** ***Kentucky Educational Excellence***[~~or Commonwealth~~] Scholarship and supplemental award***, or supplemental award only pursuant to KRS 164.7879(3)(c)*** through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school***, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services***;

(c) The eligible ***postsecondary*** student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible ***postsecondary*** student's cumulative grade point average after the completion of each award period.

(4)[~~(5)~~]Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible ***postsecondary*** students enrolled for that academic term. ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarships and supplemental awards shall be disbursed by the authority to each eligible ***postsecondary*** student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5)[~~(6)~~][~~Except as provided in this subsection,~~]The ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarship and the supplemental award shall not be reduced***,*** [~~:~~

~~(a)~~]***except as provided in KRS 164.7881(4)***[~~If the sum of the Commonwealth merit scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec. 1087ll, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education~~].

(6)[~~(b)~~]***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarships and supplemental awards shall not be awarded ***or disbursed*** to any eligible ***postsecondary*** students who are in default on any obligation to the authority under any programs administered by the authority[~~ under KRS 164.785~~] until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of ***Kentucky Educational Excellence***[~~Commonwealth merit~~] Scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

SB 143, AN ACT relating to teacher tribunals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education***, the Education Professional Standards Board,*** or lawful rules and regulations established by the local board of education for the operation of schools, or refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a written record of teacher performance by the superintendent, principal, or other supervisory personnel of the district, except when the charges are brought as a result of a recommendation made under KRS 158.6455.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the teacher with a written statement specifying in detail the charge against the teacher. The teacher may within ten (10) days after receiving the charge notify the chief state school officer and the superintendent of his intention to answer the charge, and upon failure of the teacher to give notice within ten (10) days, the dismissal shall be final.

(4) Upon receiving the teacher's notice of his intention to answer the charge, the chief state school officer shall appoint a three (3) member tribunal, consisting of one (1) teacher, one (1) administrator, and one (1) lay person, none of whom reside in the district, to conduct an administrative hearing in accordance with KRS Chapter 13B within the district. The chief state school officer shall name the chairman and set the date and time for the hearing. The hearing shall begin no later than forty-five (45) days after the teacher files the notice of intent to answer the charge.

(5) ***A hearing officer shall have final authority to rule on dispositive prehearing motions.***

(6) The hearing may be public or private at the discretion of the teacher. At the hearing, a hearing officer appointed by the chief state school officer shall preside with authority to rule on procedural matters, but the tribunal shall be the ultimate trier of fact. The local board shall pay each member of the tribunal a per diem of one hundred dollars ($100) and travel expenses.

(7)[~~(6)~~]Upon hearing both sides of the case, the tribunal may by a majority vote render its decision or may defer its action for not more than five (5) days. Provisions of KRS Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be rendered on the record.

(8)[~~(7)~~]The superintendent may suspend the teacher pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If after the hearing the decision of the tribunal is against termination of the contract, the suspended teacher shall be paid his full salary for any period of suspension.

(9)[~~(8)~~]The teacher shall have the right to make an appeal to the Circuit Court having jurisdiction in the county where the school district is located in accordance with KRS Chapter 13B. ***The review of the final order shall be conducted by the Circuit Court as required by KRS 13B.150.***

(10)[~~(9)~~] As an alternative to termination of a teacher's contract, the superintendent upon notifying the board and providing written notification to the teacher of the charge may impose other sanctions, including, suspension without pay, public reprimand, or private reprimand. The procedures set out in subsection (3) of this section shall apply ***if the teacher is suspended without pay or publicly reprimanded***[~~, except to a private reprimand~~]. The teacher may appeal the action of the superintendent ***if these sanctions are imposed***[~~, except a private reprimand,~~] in the same manner as established in subsections (4) to *(9)*[~~(8)~~] of this section. Upon completion of a suspension period, the teacher may be reinstated.

SB 221, AN ACT relating to adult education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education; and

(aa) Chief information officer of the Commonwealth.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter

151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 2. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means ***the***~~[a]~~ commissioner ***for the Department of Technical Education*** or any person authorized by ***the***~~[a]~~ commissioner to act on behalf of ***the department***~~[his particular agency of the Cabinet for Workforce Development]~~ with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ***The***~~[Such]~~ designation shall be in writing and signed by both the commissioner and ***the***~~[his]~~ designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(i).

(3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the ~~[Department for Adult Education and Literacy and the]~~Department for Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education requiring certification or its equivalent.

(10) "Employee" means a person regularly employed in a position in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education for which compensation is on a full-time or part-time basis.

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education shall be subject to personnel administration under this chapter.

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15) "Limited status" means employment that is renewable on an annual basis.

(16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17) "Position" means employment involving duties requiring the services of one (1) person.

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22)[~~ "Region" means a grouping of counties as defined in respective state plans for vocational education.~~

~~(23)~~] "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated ~~by~~ the board or a court to a position in the former class or to a position of like status and pay.

(23)[~~(24)~~] "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(24)[~~(25)~~] "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(25)[~~(26)~~] "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(26)[~~(27)~~] "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position[~~, as well as any assistant or secretary attached to the position,~~] who shall be exempt from the state service under KRS Chapter 18A and who is employed in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education under this chapter.

Section 3. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education central *office and*[~~offices,~~] state-operated vocational facilities[~~, and regional staffs~~]. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the board and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education.

(5) The commissioner for[~~ Adult Education and Literacy and the commissioner for~~] Technical Education shall be the appointing ***authority***[~~authorities~~] with respect to all personnel actions for ***the department***[~~their respective departments~~]. ***The***[~~Each~~] commissioner may authorize a designee to act on behalf of ***the***[~~his~~] agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ***Any personnel***[~~Such~~] designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. ***Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education and the Department for Adult Education and Literacy attached to policymaking positions shall be governed by KRS 18A.095, effective August 15, 2000. The State Personnel Board, established in KRS 18A.045. shall hear appeals that are pending as of August 15, 2000, from***

assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in the Department for Adult Education and Literacy.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 4. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education shall be:

(a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;

(b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;

(c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;

(d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;

(e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and

(f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the departments shall be placed in the Kentucky Teacher's Retirement System.

Section 5. KRS 151B.045 is amended to read as follows:

(1) The records of the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the departments for each employee. The files maintained by the departments shall be the official personnel file for the employees.

(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his ***or her*** right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his ***or her*** personnel file. An employee may comment in writing on any item in the file. ***The***[~~Such~~] comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 6. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or ***a***[~~his~~] designee.

(3) The departments shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner or ***a***[~~his~~] designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or ***a***[~~his~~] designee.

(5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the commissioner or ***a***[~~his~~] designee, excluding the day the employee's request is received, unless the employee and the commissioner or ***a***[~~his~~] designee agree to a later date.

(6) No later than five (5) working days after the employee appears before the commissioner or ***a***[~~his~~] designee, excluding the day of the appearance, the commissioner or ***a***[~~his~~] designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the commissioner or ***a***[~~his~~] designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal is based;
3. The date, time, and place of the action or activities; and
4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion or suspension is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The ***Department for Technical Education***~~[departments]~~ shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the~~[appropriate]~~ commissioner shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.

(12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.

(b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his ***or her*** right to appeal the denial under the provisions of KRS 151B.060.

(c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(15) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the commissioner shall immediately reinstate the employee to his ***or her*** former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his ***or her*** former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 7. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the~~[Department for Adult Education and Literacy or the]~~ Department for Technical Education~~[as appropriate]~~. The department shall process proper payment to the employee for the period of suspension, the payment to be made out

of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 8. KRS 151B.070 is amended to read as follows:

(1) All certified and equivalent employees shall serve a one (1) year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in KRS 151B.055. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis. ***Limited status employees may be dismissed without cause before the annual anniversary date.***

(2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.

(3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in this chapter.

(4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of this chapter to continuing status employees.

(5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.

(6) A continuing status employee who has been laid off may return to a position with continuing status if an appropriate position is available.

Section 9. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The Department ***for Technical Education*** shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the[~~ Department for Adult Education and Literacy or the~~] Department for Technical Education, except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies ***the***[~~his~~] department in writing that he ***or she*** no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, ***the***[~~such~~] offers to be for a position of the same classification and salary, and located in the same ***county or contiguous counties***[~~region~~], as the position from which laid off;

(c) ***Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;***[~~Without good cause,~~]

(d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(e)[~~(d)~~]The laid-off employee cannot be located by postal authorities at the last address provided; or

(f)[~~(e)~~] The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 10. KRS 151B.085 is amended to read as follows:

(1) A layoff of an employee with continuing status in ***the Department for Technical Education***[~~his department~~] due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of layoff and prior to the layoff of an employee, ***the***[~~a~~] department shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the[~~ appropriate~~] commissioner, the employee shall be notified of the pending layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be considered for a vacant position within ***the***[~~his~~] department of the same pay grade, level of duties, and responsibilities for which the employee is qualified.

(b) If a vacancy does not exist, the employee shall be considered for any vacant position within his department for which qualifications are held.

(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 11. KRS 151B.142 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) There is created in the ***Council on Postsecondary Education***[~~Department of Adult Education and Literacy of the Cabinet for Workforce Development~~], a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section. ***Moneys accumulated in this fund on the effective date of this Act shall remain in the fund and be transferred to the Council on Postsecondary Education to be used for purposes stated in this section.***

(2) The purpose of the adult education and literacy initiative fund shall be to ***support strategies for adult education, to provide statewide initiatives for excellence, and to provide funds for research and development activities***[~~provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for Adult Education and Literacy~~].

(3) The council, in collaboration with the Department for Adult Education and Literacy, shall establish the guidelines for the use, distribution, and administration of the fund, financial incentives, technical assistance, and other support for strategic planning; and guidelines for fiscal agents to assess county and area needs and to develop strategies to meet those needs.

(4) The fund shall include the following strategies:

(a) Statewide initiatives. Funds shall be used to encourage collaboration with other organizations, stimulate development of models of adult education programs that may be replicated elsewhere in the state, provide

incentives for adults, employers, and providers to encourage adults to establish and accomplish learning contracts, provide incentives to encourage participation in adult education, assist providers of county and area programs in areas of highest need, and for other initiatives of regional or statewide significance as determined by the council. The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under Section 15 of this Act shall evaluate the reading and literacy components of model programs funded under this paragraph.

(b) Research and demonstration. The funds shall be used to develop:

1. Standards for the preparation, professional development, and support for adult educators with the advice of the Department for Adult Education and Literacy and as compatible with funds provided under Title II of the Federal Workforce Investment Act;

2. A statewide competency-based certification for transferable skills in the workplace; and

3. A statewide public information and marketing campaign.

Section 12. KRS 158.360 is amended to read as follows:

(1) The[~~ State Board for Adult and Technical Education shall approve grants and authorize the~~] Department for Adult Education and Literacy ***shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department***[~~to disburse funds to selected local educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence Programs. The Department for Adult Education and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program~~].

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services[~~;~~

~~The programs may operate on a year-round basis. The programs may also be blended with other programs as long as all criteria in this subsection are met.~~

~~(3) Eligible participants shall be those parents who are sixteen (16) years of age or older, not enrolled in a regular secondary school program, and who do not possess a high school credential, or who have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years.~~

~~(4) Priority in the selection of grant awards shall be based on the county's low level of literacy in the adult population, high numbers of unemployed, and high levels of poverty.~~

~~(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program~~].

Section 13. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of

postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education ***and adult education*** in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities***,*** ~~[and]~~the Kentucky Community and Technical College System***, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education and Literacy***. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

(22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under KRS 164.013;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;~~[and]~~

(33) ***Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of the state's adult population. The council shall:***

(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;

(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;

(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;

(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

(e) Administer the adult education and literacy initiative fund created under Section 11 of this Act; and

(34) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 14. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education***, in consultation with the Department for Adult Education and Literacy and the Collaborative Center for Literacy Development: Early Childhood through Adulthood*** shall ***assess the need for technical assistance, training, and other***~~[establish regional advisory groups and shall provide necessary staff]~~ support to assist in the development of ***adult education and***~~[regional strategies for]~~ workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The ***council shall promote the involvement of***~~[regional advisory groups shall be encouraged to:~~

~~(1) Involve]~~ universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives~~[from regional and state labor market areas]~~; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies~~[; and~~

~~(2) Assist with an annual review of progress toward the regional strategies]~~.

Section 15. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education ***and adult education providers*** to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers***, including adult education teachers,*** implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;~~[and]~~

(f) Establishing a demonstration and training site for early literacy located at each of the public universities***; and***

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under Section 11 of this Act.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location~~[no later than October 1, 1998,]~~ and monitor the ***progress***~~[establishment]~~ of the center.

Section 16. Sections 2 to 7 and 10 of this Act take effect August 15, 2000.

SB 236, AN ACT relating to education advisory groups.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.317 is amended to read as follows:

(1) The Kentucky Board of Education through administrative regulations shall develop and implement a statewide Early Childhood Education Program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally accepted early childhood programs, including the delivery of health and social services to children as needed.

(2) (a) The Kentucky Early Childhood Advisory Council is created to advise the chief state school officer on the implementation of early childhood education programs. The Department of Education shall provide staff and administrative support for the council.

(b) The Kentucky Early Childhood Advisory Council shall consist of one (1) member of the Kentucky Board of Education appointed by the chairman and sixteen (16) members appointed by the Governor. The sixteen (16) appointed members shall include one (1) representative from each of the following agencies or groups: preschool teachers, public school teachers, elementary school principals, parents, child-care providers, community education, ***a representative of***[~~the Interagency Task Force on~~] Family Resource Centers ***or***[~~and~~] Youth Services Centers, the Head Start Association, the Head Start director, the Head Start Program, the Infant/Toddler Coordinating Council, the Department for Public Health, the Department for ***Community Based***[~~Social~~] Services, ***a local district superintendent***[~~, the Department for Social Insurance~~], the colleges of education, and the colleges of home economics.

(c) Members shall serve a four (4) year term, except initial appointments shall be set so that four (4) members shall serve one (1) year, four (4) members shall serve two (2) years, four (4) members shall serve three (3) years, and four (4) members shall serve four (4) years.

Section 2. KRS 158.794 is amended to read as follows:

(1) The Early Reading Incentive Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the early reading incentive grant fund created by KRS 158.792. The committee shall be composed of fifteen (15) members including the commissioner of education or the commissioner's designee, the president of the Council on Postsecondary Education or the president's designee, ***the commissioner of the Department***[~~, a representative from the Advisory Council~~] for Adult Education and Literacy ***or the commissioner's designee***[~~to be selected by its membership~~], and the following members, to be appointed by the Governor:

(a) Two (2) primary program teachers with a specialty or background in reading and literacy;

(b) Eight (8) university professors with a specialty or background in reading and literacy representing each of the public universities; and

(c) Two (2) individuals from the state at large with background and interest in reading and literacy.

(2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, four (4) members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.

(3) A majority of the full authorized membership shall constitute a quorum.

(4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.

(5) The committee shall be attached to the Department of Education for administrative purposes.

(6) The committee shall:

(a) Identify needs in schools throughout the state regarding reading and literacy programs;

(b) Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;

(c) Develop a process for monitoring grants that are awarded; and

(d) Recommend approval of grant applications based upon criteria established by the committee.

Section 3. KRS 167.037 is amended to read as follows:

(1) There shall be established a Kentucky School for the Deaf Advisory Board, composed of ***nine (9)***[~~seven (7)~~] members appointed by the Kentucky Board of Education upon recommendation of the chief state school officer. At the first regular meeting in each fiscal year, the board shall elect a chairman and vice chairman. A member may serve no more than two (2) consecutive years as chairman. Members shall be appointed for regular terms of four (4) years. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in performance of their duties.

(2) Advisory board members for the Kentucky School for the Deaf shall be selected from nominations submitted by the Kentucky Association of the Deaf Inc., the Parent-Teacher-Cottage Parent Association, the Kentucky School for the Deaf Alumni Association Inc., ***the Kentucky Association of School Administrators,*** and the chief state school officer. Membership on the board shall be statewide and shall consist of two (2) parents of deaf children, one (1) professional in education of the deaf, one (1) former student of the Kentucky School for the Deaf, one (1) member of the Kentucky Association for the Deaf, ***two (2) members who shall represent school districts,*** and two (2) members at large. ***A majority of the board's membership shall be persons who are deaf or hard of hearing.***

(3) The board shall act in an advisory capacity to assist the school superintendent in conducting the activities of the school. The board shall also make recommendations to the chief state school officer concerning all areas relating to the effective operation of the school, including but not limited to:

- (a) Goals and objectives,
- (b) Budget requests,
- (c) Student services,
- (d) Public relations,
- (e) Construction and maintenance, and
- (f) Program evaluation.

SB 240, AN ACT relating to tuition.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Community and Technical College System. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

(22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the

public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under KRS 164.013;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions ***and in state and locally operated secondary area technology centers*** through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution ***or a state or locally operated secondary area technology center*** may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

SB 259, AN ACT relating to boards of directors for community colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.600 is amended to read as follows:

(1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(2) There shall be a board of directors for each community college under the Kentucky Community and Technical College System, except as provided in KRS 165.160. Each board of directors shall:

  (a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

  (b) Evaluate the community college president and advise the chancellor of his or her performance. The president has final authority for the appointment and termination of the community college president;

  (c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

  (d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

  (e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(3) The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS

164.350.

(4) Each board of directors shall consist of ***ten (10)***[~~nine (9)~~] members, seven (7) of whom shall be appointed by the Governor for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other ***three (3)***[~~two (2)~~] board members shall be one (1) member of the teaching faculty, ***one (1) member of the staff,*** and one (1) member of the student body. An appointed member's term shall be six (6) years.

(5) The faculty member shall be on the teaching or research faculty of the community college. ***The faculty member***[~~He~~] shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(6) ***The staff member shall be a classified or mid-management employee who does not hold faculty rank and who does not hold an upper administrative position. The staff member shall be elected by secret ballot of all full-time staff members of the community college. Staff members shall serve for terms of three (3) years and until their successors are elected and qualified. Staff members shall be eligible for reelection, but shall be ineligible to continue to serve as members of the boards if they cease to be members of the staff of the community college. An election to fill a vacancy for an unexpired term shall be held in the same manner as an election to an original full term.***

(7) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(8)[~~(7)~~]The members of the board of directors shall receive no compensation for their services but shall be paid for their actual and necessary expenses.

(9)[~~(8)~~]No citizen member of the board of directors shall be a relative of any employee of the community college under its jurisdiction. A person who is a member of the board on July 15, 1998, who is a relative of an employee of the community college may finish out the appointed term of office but the member may not be reappointed.

(10)[~~(9)~~] The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

SB 265, AN ACT relating to school councils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) [~~By January 1, 1991,~~]Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals

established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. ***A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative***~~[The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor]~~ shall ***not***~~[they]~~ be a local board member or ***a board member's***~~[his]~~ spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council***, consistent with subsection (2)(i)10. of this section***. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;~~[and]~~
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal***; and***
10. ***Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to, meetings, timelines, interviews, review of written applications, and review of references.***

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council shall adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b). The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than December 31 of each year. If a school does not have a council, the review shall be completed by the principal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest

organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky

Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students ***and the quality of the school council's data analysis and planning in accordance with subsection (2)(j) of Section 1 of this Act***;

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal ***and report to the public on the resulting findings regarding each aspect of the schools' operations required under paragraph (a)2. of subsection (4) of this section***.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants

the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

SB 287, AN ACT relating to school district employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the ***commissioner of education***[~~chief state school officer~~] thirty (30) days before the position shall be filled. The ***commissioner of education***[~~chief state school officer~~] shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the ***commissioner of education***[~~chief state school officer~~]. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the ***commissioner of education***[~~chief state school officer~~]. The ***commissioner of education***[~~chief state school officer~~] shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative ***was***[~~is~~] an employee of the district, the board member ***was***[~~is~~] holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse~~[who was employed in the 1989-90 school year and is]~~ in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.

(4) (a) ~~[Beginning January 1, 1999,]~~A superintendent shall require a national and state criminal background check on all new certified hires in the school district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

(b) The superintendent shall require that each new certified hire, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

The Committee on Transportation reported **HB 495,** with Committee Substitute attached thereto, **HB 817, HJR 134**, with Committee Substitute attached thereto, **HR 151, SB 147, SB 254,** and **SJR 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 495, AN ACT relating to all-terrain vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway[~~ as of July 15, 1998~~], a person operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(6) ***(a) A person may operate an all-terrain vehicle on a public highway, other than an interstate highway or a parkway, in order to cross the highway. In crossing the highway under this paragraph, the operator shall not travel on the highway for any longer than necessary to cross the highway safely.***

(b) A person may operate an all-terrain vehicle on a public highway, other than an interstate highway or a parkway, if the operator is engaged in farm or agriculture related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that ***are***[~~were~~] prohibited[~~, as of July 15, 1998,~~] may be operated.

The Committee Substitute No. 1 to **HB 495** is as follows:

HB 495, AN ACT relating to all-terrain vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway[~~ as of July 15, 1998~~], a person operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(6) *(a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.*

(b) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that *are*~~[were]~~ prohibited~~[, as of July 15, 1998,]~~ may be operated.

(c) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(e) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(f) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal.

HB 817, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.045 is amended to read as follows:

(1) Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the security interest was noted on the certificate of title. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the title lien statement. The county clerk shall enter the assignment of the perfected security interest into the automated vehicle information system. For this service the county clerk shall collect a fee pursuant to KRS 64.012.

(2) Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 to 355.9-507 or similar proceedings, the secured party shall, within ten (10) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1)*(b)*. Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing such security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on such title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(3) Upon presentation of the owner's title showing such security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If such record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered,

shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If such record of termination has not been entered into the automated system, in no case shall the county clerk of the county other than where the termination statement was delivered, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(4) Whenever any secured party repossesses a vehicle titled in this state, for which a security interest is in existence at the time of repossession, and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, must be shown on the title issued by the clerk unless the prior secured party has discharged such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(5) Whenever any vehicle brought into this state is required to be titled in this state and such vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(6) The fees provided for in this section are in addition to any state fee provided for by law.

(7) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1)***(b)*** of KRS 186.990.

(8) The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 must be obtained from the clerk by the owner of the vehicle.

(9) Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly titled herein under KRS Chapter 186A and the security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 2. KRS 186.990 is amended to read as follows:

(1) ***(a)*** Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040~~[, 186.045(2)]~~, 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180, 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

(b) Any person who violates any of the provisions of Section 1 of this Act shall pay a fine of two hundred and fifty dollars ($250) for the first offense and not less than two hundred and fifty dollars ($250) and not more than two thousand five hundred dollars ($2,500) for each subsequent offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

HJR 134, A JOINT RESOLUTION creating a task force and directing a study of incentives to stimulate alternative fuel vehicle purchases, conversions, usage, and development of supporting infrastructure.

WHEREAS, the dependence on foreign oil has adversely affected the economic well being of all Kentuckians; and

WHEREAS, the use of conventional vehicle fuel creates undesirable levels of toxic emissions detrimental to the health of every Kentuckian; and

WHEREAS, use of alternative fuels for vehicles results in significant reductions of toxic emissions; and

WHEREAS, additional development of existing alternative fuel infrastructure as a vital foundation for economic growth and opportunity is necessary to promote broader use and acceptance of alternative fuel vehicles; and

WHEREAS, Kentucky is a leader in the production of grain, natural gas and other products and technologies, such as bio-diesel, propane, and electricity; and

WHEREAS, the Kentucky Clean Fuels Coalition has promoted the use of alternative fuels in the Commonwealth since 1993; and

WHEREAS, there are benefits to Kentucky and Kentuckians in increased availability, convenience, and use of alternative fuel vehicles;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Alternative Fuel Task Force is established. Its members shall study the issues surrounding alternative fuel use in vehicles and report its findings and recommendations.

Section 2. The task force shall consist of the following membership:

(1) The Lieutenant Governor shall serve as chair. One co-chair shall be named by the President of the Senate and one co-chair shall be named by the Speaker of the House of Representatives.

(2) Eight (8) additional members from the General Assembly, four (4) being selected from the Senate and four (4) being selected from the House of Representatives. Majority leadership of each chamber shall choose two (2) members and minority leadership shall choose the remaining two (2).

(3) Ten (10) members appointed by the chair from a list of nominees provided by the Kentucky Clean Fuels Coalition. The list may include, but should not be limited to, members of the coalition.

(4) All appointments shall be approved by the Legislative Research Commission.

Section 3. A majority of the members shall constitute a quorum.

Section 4. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses.

Section 5. The task force shall meet monthly beginning in July of 2000, and may meet more often upon the call of the chair or by a majority of the members.

Section 6. The task force shall report findings and recommendations to the Governor and to the Legislative Research Commission by January 15, 2001. Recommendations may be made in the form of a State Alternative Fuel Plan and should include the following:

(1) Proposed incentives designed to lead to increased use and availability of alternative fuels for vehicles.

(2) Regulatory constraints and environmental considerations.

(3) Continuing research and education.

(4) Fiscal impact of proposed incentives.

(5) Suggestions for increasing the use of alternative fuels in dual-fuel vehicles owned by the Commonwealth.

Section 7. Staffing and administrative responsibilities for the task force shall be by the Legislative Research Commission with assistance from the Office of the Lieutenant Governor.

Section 8. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute No. 1 to **HJR 134** is as follows:

HJR 134, A JOINT RESOLUTION creating a task force and directing a study of incentives to stimulate alternative fuel vehicle purchases, conversions, usage, and development of supporting infrastructure.

WHEREAS, the dependence on foreign oil has adversely affected the economic well being of all Kentuckians; and

WHEREAS, the use of conventional vehicle fuel creates undesirable levels of toxic emissions detrimental to the health of every Kentuckian; and

WHEREAS, use of alternative fuels for vehicles results in significant reductions of toxic emissions; and

WHEREAS, additional development of existing alternative fuel infrastructure as a vital foundation for economic growth and opportunity is necessary to promote broader use and acceptance of alternative fuel vehicles; and

WHEREAS, Kentucky is a leader in the production of grain, natural gas and other products and technologies, such as bio-diesel, propane, and electricity; and

WHEREAS, the Kentucky Clean Fuels Coalition has promoted the use of alternative fuels in the Commonwealth since 1993; and

WHEREAS, there are benefits to Kentucky and Kentuckians in increased availability, convenience, and use of alternative fuel vehicles;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Alternative Fuel Task Force is established. Its members shall study the issues surrounding alternative fuel use in vehicles and report its findings and recommendations.

Section 2. The task force shall consist of the following membership:

(1) The Lieutenant Governor shall serve as chair. One co-chair shall be named by the President of the Senate and one co-chair shall be named by the Speaker of the House of Representatives.

(2) Eight (8) additional members from the General Assembly, four (4) being selected from the Senate and four (4) being selected from the House of Representatives. Majority leadership of each chamber shall choose two (2) members and minority leadership shall choose the remaining two (2).

(3) Ten (10) members appointed by the chair from a list of nominees provided by the Kentucky Clean Fuels Coalition. The list may include, but should not be limited to, members of the coalition.

Section 3. A majority of the members shall constitute a quorum.

Section 4. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses.

Section 5. The task force shall meet monthly beginning in July of 2000, and may meet more often upon the call of the chair or by a majority of the members.

Section 6. The task force shall report findings and recommendations to the Governor and to the Legislative Research Commission by January 15, 2001. Recommendations may be made in the form of a State Alternative Fuel Plan and should include the following:

(1) Proposed incentives designed to lead to increased use and availability of alternative fuels for vehicles.

(2) Regulatory constraints and environmental considerations.

(3) Continuing research and education.

(4) Fiscal impact of proposed incentives.

(5) Suggestions for increasing the use of alternative fuels in dual-fuel vehicles owned by the Commonwealth.

Section 7. Staffing and administrative responsibilities for the task force shall be performed by the Natural Resources and Environmental Protection Cabinet with assistance from the Office of the Lieutenant Governor.

HR 151, A RESOLUTION recognizing the benefits of ethanol as an effective alternative to methyl-tertiary butyl ether (MTBE) in gasoline.

WHEREAS, methyl-tertiary butyl ether (MTBE) is a chemical compound used in formulations of gasoline; and

WHEREAS, MTBE is a suspected human carcinogen and has been discovered to facilitate the movement of gasoline through water; and

WHEREAS, ethanol is an effective fuel-blending component, made from domestic grain and potentially from recycled biomass, that reduces carbon monoxide levels in today's automobile emissions by 25 percent; and

WHEREAS, ethanol is a natural cleaner that eliminates grime and rust build-up from fuel lines in engines; and

WHEREAS, the United States faces the highest oil prices in nearly a decade and ethanol reduces the demand for oil and MTBE imports and dependence on foreign suppliers; and

WHEREAS, greater use of ethanol in gasoline would establish a long-term domestic market and could add more than $6 billion to the American economy each year; and

WHEREAS, the ethanol industry contributes $37,200,000 in economic benefits to Kentucky corn producers and increased use of ethanol would benefit thousands across the Commonwealth; and

WHEREAS, the Kentucky Transportation Cabinet has one of the nation's largest state managed vehicle fleets which operate on 85% ethanol and 15% gasoline; and

WHEREAS, by promoting the growth of ethanol, Kentucky is preserving its natural environment and protecting the public interest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Ethanol is an effective alternative to MTBE in gasoline for its environmental advantages as well as for its performance benefits.

Section 2. The United States Government and the Commonwealth are encouraged to promote ethanol and discontinue the use of MTBE in fuels.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the President of the United States and to each member of the Congressional delegation representing the people of the Commonwealth of Kentucky.

SB 147, AN ACT relating to wetland and stream mitigation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) Upon request of any state agency or any other entity, the department may contract with the agency or party to undertake any compensatory mitigation project, including but not limited to wetland or stream mitigation.

(2) The department may establish and manage wetland or stream compensatory mitigation banks, the purpose of which shall be to restore, create, or enhance wetlands and streams as compensatory mitigation where a state agency or other party is required to provide compensatory mitigation, and where the use of banked mitigation is approved by the agency requiring mitigation. The department may create the bank in advance of requests for banked mitigation credits.

(3) There is established and created in the State Treasury the "Kentucky Wetland and Stream Mitigation Fund" for the purpose of restoring, creating, enhancing, or preserving the Commonwealth's wetlands or streams that may be damaged or destroyed due to any project, recovering costs associated with performing these projects, and administering these programs. The fund shall be deemed a trust and agency fund account and made available solely for the purposes and benefits of the Kentucky wetland and stream mitigation projects. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Money deposited in the fund shall be disbursed by the State Treasurer upon the request of the commissioner with the approval of the commission. Any unallocated or unencumbered balance in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments, along with the unallocated or unencumbered balance in the fund, shall not lapse.

SB 254, AN ACT relating to vehicle emissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-720 is amended to read as follows:

(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.

(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to KRS 224.20-710 to 224.20-765. Vehicles with state or official registration routinely operating in these counties shall be inspected ***at the same frequency as privately owned registered vehicles***~~[at least once within each twelve~~

~~(12) month period]~~ following the original registration.

SJR 69, A JOINT RESOLUTION directing the Transportation Cabinet to name the new bypass connecting Kentucky Route 52 and Kentucky Route 89 in Estill County in honor of Joseph Proctor.

We pause to honor a hero and patriot of the Commonwealth, a man in whom "the public's confidence in his purity and integrity was absolute", the Reverend Joseph Proctor.

WHEREAS, Joseph Proctor was born in Rowan County, North Carolina, in 1754; and

WHEREAS, a valiant young man, Joseph Proctor rallied to protect early settlers in North Carolina against uprisings of the Cherokee Nation; and

WHEREAS, Joseph Proctor's early experience fighting Indians proved essential to the citizens of the Commonwealth when he moved to Boonesborough in April, 1778; and

WHEREAS, Joseph Proctor assisted in defending the fort at Boonesborough in August, 1778, during a nine day siege in an attack by 500 Indians led by Canadian officers; and

WHEREAS, being a fearless warrior was only one facet of Joseph Proctor's personality, for, in 1809, he was ordained a Methodist Episcopal minister; and

WHEREAS, Joseph Proctor, along with Thomas Todd, was one of the first families to build a home in what is now Estill County; and

WHEREAS, Joseph Proctor's first home was a cabin on Sweet Lick Creek, now known as Estill Springs; and

WHEREAS, Reverend Joseph Proctor founded two of the earliest churches in Estill County, the first being the Methodist Episcopal Church at the rural community of Kimbrell in 1809, and the second being Proctor's Chapel which was located on White Oak Creek; and

WHEREAS, Reverend Joseph Proctor's ministry was most notable for the weekly prayer meetings he held each Thursday night in Estill County -- after the first courthouse was built and until his death in 1844, Joseph Proctor could be found in the County Clerk's office sharing the gospel; and

WHEREAS, even though Reverend Joseph Proctor was not a native Kentuckian, his contributions to the Commonwealth's early struggles were critical to the state's success for he was instrumental in protecting both the physical and religious lives of those first pioneer families;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the new by-pass connecting Kentucky Route 52 and Kentucky Route 89 in Estill County the "Joseph Proctor Memorial By-Pass".

Section 2. The Transportation Cabinet is directed to erect signs at each junction of the new by-pass with Kentucky Route 52 and Kentucky Route 89 that read "The Joseph Proctor Memorial By-Pass" within thirty (30) days of the effective date of this Resolution.

The Committee on Natural Resources and Environment reported **HJR 143,** with Committee Substitute attached thereto, **SB 21,** with House Committee Amendment attached thereto, and **SJR 68** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 143, A JOINT RESOLUTION promoting state government energy conservation and recycling programs.

WHEREAS, Kentucky state government spends over $53,000,000 in energy costs; and

WHEREAS, the Division of Energy of the Natural Resources and Environmental Protection Cabinet conservatively estimates that the state energy conservation program can save up to twenty-five percent or $13,250,000; and

WHEREAS, higher cost building improvements can be funded through guaranteed energy savings performance contracting with private sector expertise and financing paid from the energy savings, but this program has not been fully implemented; and

WHEREAS, to fully implement the Energy Efficiency Program for State Government Buildings that the Kentucky General Assembly initiated by passing legislation during the 1996 and 1998 Sessions, additional staffing and funding authorization, rather than appropriations, are needed by the Department for Facilities Management to fully implement the program and do performance contracting for major building improvements; and

WHEREAS, the state is currently positioned to join the United States Environmental Protection Agency's Energy Star Building Program to gain federal benefits to assist in efforts to achieve more energy efficiency; and

WHEREAS, the General Assembly currently spends $105,000 per year on lighting costs alone in the east wing of the Capitol Annex; and

WHEREAS, with the implementation of low-cost or no-cost measures such as turning out the lights from 10 p.m. to 6 a.m. every day and other measures, the General Assembly can make a fifty-three percent reduction in energy usage, saving $56,000 per year; and

WHEREAS, Kentucky state government currently has a comprehensive paper recycling program administered by the Division of Waste Management; and

WHEREAS, this program collected and recycled over 5,500,000 pounds of office paper in 1998; and

WHEREAS, the General Assembly used 48,000 reams of office paper in 1998, 24,000 of that during the 1998 session, which is the equivalent of 260,000 pounds of office paper;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor and the General Assembly are urged to fully implement the Energy Efficiency Program for State Government Buildings that was passed in 1996 and strengthened in 1998.

Section 2. That the state is urged to participate in and join the United States Environmental Protection Agency's Energy Star Building Program to gain federal benefits.

Section 3. That the General Assembly and the Legislative Research Commission shall implement a low-cost or no-cost energy conservation program to achieve savings for the General Assembly and show support for the state program.

Section 4. That the General Assembly and the Legislative Research Commission shall fully implement and participate in the state recycling program, particularly during legislative sessions.

The Committee Substitute No. 1 to **HJR 143** is as follows:

HJR 143, A JOINT RESOLUTION promoting state government energy conservation and recycling programs.

WHEREAS, Kentucky state government spends over $53,000,000 in energy costs; and

WHEREAS, the Division of Energy of the Natural Resources and Environmental Protection Cabinet conservatively estimates that the state energy conservation program can save up to twenty-five percent or $13,250,000; and

WHEREAS, higher cost building improvements can be funded through guaranteed energy savings performance contracting with private sector expertise and financing paid from the energy savings, but this program has not been fully implemented; and

WHEREAS, to fully implement the Energy Efficiency Program for State Government Buildings that the Kentucky General Assembly initiated by passing legislation during the 1996 and 1998 Sessions, additional staffing and funding authorization, rather than appropriations, are needed by the Department for Facilities Management to fully implement the program and do performance contracting for major building improvements; and

WHEREAS, the state is currently positioned to join the United States Environmental Protection Agency's Energy Star Building Program to gain federal benefits to assist in efforts to achieve more energy efficiency; and

WHEREAS, the General Assembly currently spends $105,000 per year on lighting costs alone in the east wing of the Capitol Annex; and

WHEREAS, with the implementation of low-cost or no-cost measures such as turning out the lights from 10 p.m. to 6 a.m. every day and other measures, the General Assembly can make a fifty-three percent reduction in energy usage, saving $56,000 per year; and

WHEREAS, Kentucky state government currently has a comprehensive paper recycling program administered by the Division of Waste Management; and

WHEREAS, this program collected and recycled over 5,500,000 pounds of office paper in 1998; and

WHEREAS, the General Assembly used 48,000 reams of office paper in 1998, 24,000 of that during the 1998 session, which is the equivalent of 260,000 pounds of office paper;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor and the General Assembly are urged to fully implement the Energy Efficiency Program for State Government Buildings that was passed in 1996 and strengthened in 1998.

Section 2. That the state is urged to participate in and join the United States Environmental Protection Agency's Energy Star Building Program to gain federal benefits.

Section 3. That the Finance Cabinet shall have an energy audit prepared for the space occupied by the legislative branch in the Capitol and Annex and develop a set of recommendations for energy-saving measures that could be taken in these areas that would constitute a low-cost or no-cost energy conservation program and submit these recommendations to the Legislative Research Commission for their consideration.

Section 4. That the Legislative Research Commission shall improve energy awareness by advising staff of office practices that will save energy. The Commission shall also review its purchasing policies in order to assure consideration of energy efficiency, use of recycled materials, and recyclability of the materials it purchases.

Section 5. That the General Assembly and the Legislative Research Commission shall fully implement and participate in the state recycling program, particularly during legislative sessions.

SB 21, AN ACT relating to the Petroleum Storage Tank Environmental Assurance Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

- (a) Any interest earned upon money deposited in the fund;
- (b) Money appropriated by the General Assembly for deposit in the fund;
- (c) Any money recovered by the fund pursuant to this section; and
- (d) Any money collected in the form of penalties levied pursuant to KRS 224.60-155.

(2) Money in the fund may be used by the office for the following purposes:

- (a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action as the result of a release into the environment from a petroleum storage tank. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130(2)(j);
- (b) For payment of or reimbursement for third-party claims for bodily injury and property damage which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;
- (c) To pay the reasonable costs incurred by the office in administering the fund;
- (d) Payment to the cabinet of the costs of implementing the tank registration required by KRS 224.60-142; and
- (e) To operate the small operators' assistance account pursuant to KRS 224.60-130(2)(d), the small operators' tank removal account pursuant to KRS 224.60-130(2)(j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130(2)(k), and to employ sufficient assurance fund auditors to carry out the provisions of KRS 224.60-130 and to set forth their duties.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the office for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the office.

(7) The office or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the office from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the office's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to subsections (8) and (18) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the office pursuant to this section shall be deposited in the fund.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) *(a) Any person filing a claim for reimbursement from the office shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.*

(b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the office and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that their, their heirs, successors, and assigns sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to proceed against the prime contractor for whom they performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the office. Their signatures must be notarized.

(c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the office shall certify, by affidavit, on standard forms furnished by the office, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.

(d) Any person with responsibility for administering the office who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information shall provide that information to the Commonwealth Attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to the claim for reimbursement.

(19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

The House Committee Amendment No. 1 to **SB 21** is as follows:

On page 6, line 12, after the first "***information***" by inserting the following:

"***, or any person with responsibility for administering the office who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information,***"; and

On page 6, line 16, after the second "***to***" by inserting "***an application for financial assistance or***".

SJR 68, A JOINT RESOLUTION urging the Kentucky Congressional Delegation to support federal law changes to allow states greater control over the use of methyl-tertiary butyl ether (MTBE) in gasoline and directing the state Natural Resources and Environmental Protection Cabinet to determine the presence of MTBE in Kentucky waters.

WHEREAS, methyl-tertiary butyl ether (MTBE) is a chemical compound used in formulations of gasoline; and

WHEREAS, MTBE is a suspected human carcinogen and has been discovered to facilitate the movement of gasoline through water; and

WHEREAS, MTBE in gasoline has become locked into use because of the reformulated gasoline program of the federal Clean Air Act and a lack of sufficient quantities of alternative compounds that could replace MTBE; and

WHEREAS, no less that seven proposals are currently before the United States Congress all of which propose to take immediate strong action to allow states to control the use of MTBE or to begin a phaseout of the compound in the nations' fuel supplies; and

WHEREAS, the United States EPA is expected to propose a drinking water standard in the fall of 2000 for MTBE;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Congressional Delegation is urged to support a change to the federal law that will allow Kentucky to ban MTBE.

Section 2. The state Natural Resources and Environmental Protection Cabinet shall determine the extent of use of MTBE in Kentucky and the presence of MTBE in surface water and groundwater in the state, and take action to develop drinking water standards to protect public health from the risks associated with MTBE. The cabinet shall report to the Interim Joint Committee on Agriculture and Natural Resources by January 1, 2001, on progress toward achieving these goals.

The Committee on Health and Welfare reported **SB 98,** with House Committee Substitute and House Committee Amendment attached thereto, **SB 121,** with House Committee Substitute and House Committee Amendment attached thereto, **SB 294,** and **SB 339** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 98, AN ACT relating to adult day health care programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "adult day health care program" means a program licensed by the Cabinet for Health Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care services, self-care training, and social and recreational activities for individuals of all ages.

(2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish health, safety, and treatment requirements for licensed adult day health care programs. No person, association, corporation, or other organization shall operate or maintain an adult day health care program without first obtaining a license as provided in this section.

(3) The cabinet may issue a license upon request to any adult day health care program meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny, revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the

cabinet.

(4) ***Services provided in an adult day health care program for its clients may include:***

- (a) ***Medical therapeutic services; and***
- (b) ***Physical and speech therapy.***

The House Committee Substitute No. 1 to **SB 98** is as follows:

SB 98, AN ACT relating to adult day health care programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) ***As used in this section, "adult day health care program" means a program licensed by the Cabinet for Health Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care services, self-care training, and social and recreational activities for individuals of all ages.***

(2) ***The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish health, safety, and treatment requirements for licensed adult day health care programs. No person, association, corporation, or other organization shall operate or maintain an adult day health care program without first obtaining a license as provided in this section.***

(3) ***The cabinet may issue a license upon request to any adult day health care program meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny, revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the cabinet.***

(4) ***Services provided in an adult day health care program for its clients may include:***

- (a) ***Medical therapeutic services; and***
- (b) ***Physical and speech therapy.***

Section 2. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" shall mean Kentucky Board of Nursing.

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

(3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

- (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
- (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.

(5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

- (a) The care, counsel, and health teaching of the ill, injured, or infirm.
- (b) The maintenance of health or prevention of illness of others.
- (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
  1. Preparing and giving medications in the prescribed dosage, route, and frequency;
  2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications.

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.

(7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner pursuant to KRS 314.042.

(8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for ***and dispense samples of*** nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.

(9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.

(10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(d) Teaching, supervising, and delegating except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).

Section 3. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board

to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or any other designation as determined by the board.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."

(8) Before an advanced registered nurse practitioner engages in the prescribing ***or dispensing*** of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

(9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 4. KRS 315.040 is amended to read as follows:

(1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.

(3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.

(4) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.

(5) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.

(6) Nothing in this chapter shall interfere with the activities of an advanced registered nurse practitioner as authorized in KRS Chapter 314.

Section 5. KRS 205.5632 is amended to read as follows:

(1) No prior authorization shall be required for reimbursement of any claim involving any Medicaid-covered new drug that is available after July 15, 1998, for a period of at least twelve (12) months, during which time the Drug Management Review Advisory Board may review the product.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A for the drug submission program. Prior to implementation of the administrative regulations, the Drug Management Review Advisory Board shall review the guidelines.

(3) The Department for Medicaid Services shall, within twenty-four (24) months of July 15, 1998, analyze drug class reviews of all current drugs requiring prior authorization, and shall continue requiring prior authorization by using drug class reviews, safety, utilization factors, and unusual or extreme cost drivers having inappropriate economic impact on the Department for Medicaid Services, until the review criteria are promulgated by administrative regulations according to

KRS Chapter 13A, and pursuant to KRS 205.5634(2). At least fifty percent (50%) of class reviews shall be completed within twelve (12) months of July 15, 1998.

(4) ***(a)*** ***Federal Food and Drug Administration (FDA) approved prescription drugs that have been determined to be within the same pharmacological category, and that have comparable clinical application, efficacy, and safety, and that are of comparable cost to other FDA-approved prescription drugs that have been placed on the Kentucky Medicaid nonprior-authorized drug file shall be placed on the Kentucky Medicaid nonprior-authorized drug file. Any drug that is removed from prior authorization in accordance with the provisions of this section shall be returned to prior authorization status if the comparable drug that was nonprior-authorized subsequently becomes prior authorized. To assure the cost effective operation of the Medicaid pharmacy program, the department shall file, no later than October 1, 2000, administrative regulations in accordance with KRS Chapter 13A that describe the process that will be employed to describe drug comparability with regard to efficacy, safety, and cost.***

(b) ***For purposes of this subsection, "pharmacological category" means a category of drugs that is characterized as having very similar properties and therapeutic effects upon living organisms.***

The House Committee Amendment No. 1 Title to **SB 98** is as follows:

By amending the title to read as follows:

"AN ACT relating to patient care.".

SB 121, AN ACT relating to dentists and dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.035 is amended to read as follows:

(1) Upon receiving an application for licensure and the required fee as ***promulgated by the board in administrative regulations, which shall not exceed one hundred fifty dollars ($150)***~~[established by the board]~~, the board may issue, without examination, a student limited license to any person who is a graduate of ***an accredited***~~[a]~~ dental school~~[approved by the board]~~ and enrolled in a resident or post-graduate program conducted by or associated with one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school where the person is a student and may only provide professional services to patients of these programs.

(2) Upon receiving an application for licensure***,***~~[and]~~ the required fee as ***promulgated by the board in administrative regulations but not to exceed one hundred fifty dollars ($150), and justification and dossier from the dean of the applicant's dental school***~~[established by the board]~~, the board may issue, without examination, a teaching limited license to a person who is a graduate of ***an accredited***~~[a]~~ dental school~~[or post-graduate dental program approved by the board]~~ and who has received an appointment as a~~[full-time]~~ faculty member of one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school of which the person is a faculty member and may only provide professional services to patients of these programs.

(3) Student limited licenses and teaching limited licenses shall be subject to annual renewal and shall automatically expire upon termination of the holder's status as a student or faculty member of the respective dental school of the Commonwealth.

(4) The holders of limited licenses described in this section shall have, within the scope of their respective licensures, all the duties and responsibilities of dental licensure imposed by this chapter and may be disciplined pursuant to KRS 313.130.

Section 2. KRS 313.040 is amended to read as follows:

(1) An applicant for a license to practice dentistry shall be of good moral character and at least eighteen (18) years of age at the time of making the application. The application shall be accompanied by evidence satisfactory to the board that the applicant:

(a) Has completed the requirements of KRS 214.615(1); and

(b) Is a graduate of and has a diploma from a~~[reputable]~~ dental college ***accredited at the time of the applicant's graduation***~~[, school or department of a reputable university, rated as acceptable by the board.~~

~~The board shall rate dental colleges, schools, or departments of a university, or accept the ratings issued by accredited bodies approved by it. The application shall be made to the board in writing. It shall be accompanied by an examination fee of fifty dollars ($50), payable to the secretary-treasurer]~~.

(2) No person shall file or attempt to file ***false, misleading, or deceptive information on an application for licensure***~~[as his own the diploma or license of another, or a forged affidavit of identification or qualification]~~.

Section 3. KRS 313.045 is amended to read as follows:

(1)[~~The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who furnishes satisfactory proof that he is a graduate of, and has a diploma from, a reputable dental college, school or department of a university accredited in the manner provided by KRS 313.040, and who holds a license from a dental board similar to the board under requirements and standard equal to or higher than those of this state.~~

~~(2) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia issuing the license referred to in this section affords similar privileges to a dentist of Kentucky holding a license from the board who removes to or desires to practice his profession in such state or territory of the United States or the District of Columbia.~~

~~(3) Where there is no reciprocity agreement, ~~]The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who ***is a graduate of and has a diploma from a dental college accredited at the time of the applicant's graduation and***[~~,~~] for five (5) consecutive years next preceding the filing of ***the***[~~his~~] application, has been engaged in the active practice of dentistry; provided, that ***the applicant***[~~he~~] was legally authorized to practice dentistry in a state or territory of the United States***,***[~~ or~~] the District of Columbia; ***or Canada***[~~and, further provided, that his qualifications for such authorization were equal to or higher than those of this state~~]. Actively engaging in the teaching of dentistry shall be considered actively engaged in the practice of dentistry.

(2)[~~(4)~~]The fee for reviewing the qualifications of an applicant under this section shall be ***promulgated by the board in administrative regulations and shall not exceed two hundred dollars ($200)***[~~fifty dollars ($50) and the fee for issuing a license certificate shall be ten dollars ($10)~~].

Section 4. KRS 313.070 is amended to read as follows:

The board shall promulgate administrative regulations in accordance with Chapter 13A to establish appropriate fees for application, examination, licensing which shall not exceed one hundred fifty dollars ($150) per year, and other fees authorized[~~In addition to the fifty dollar ($50) examination fee required in KRS 313.040, a fee of ten dollars ($10) shall be paid to the secretary-treasurer for every license certificate and ten dollars ($10) for every duplicate license certificate issued~~] by the board.

Section 5. KRS 313.130 is amended to read as follows:

(1) The board may reprimand or place on probation, or may revoke, suspend, refuse to renew, or refuse to issue a license to any dentist for any of the following causes:

(a)[~~(1)~~]Conviction of any felony or conviction of only those misdemeanors involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b)[~~(2)~~]Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(c)[~~(3)~~]Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(d)[~~(4)~~]Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter.

(e)[~~(5)~~]Addiction to a drug habit.

(f)[~~(6)~~] Chronic or persistent alcoholism.

(g)[~~(7)~~][~~Such ~~]Physical or mental disability, or other condition, that ***would make*** continued practice[~~ would be~~] dangerous to patients or to the public.

(2) The board may administer fines for the causes in paragraphs (a) to (d) of subsection (1) of this section.

Section 6. KRS 313.140 is amended to read as follows:

Unprofessional conduct includes, but is not limited to, the following acts:

(1) Employing ***any unlicensed***[~~ "cappers" or "steerers" to obtain business; or employing directly or indirectly any student, or any suspended or unlicensed dentist or other~~] person to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malpositions or malformations thereof.

(2) Obtaining any fee by fraud or misrepresentation;[~~ willfully betraying any professional secrets;~~] habitual intemperance, gross immorality, or the commission of a criminal operation;[~~ advertising to use drugs, patents, nostrums, or proprietary medicines;~~] or splitting fees.

(3) ***Representing himself or herself***[~~Advertising for dental patronage by means of circulars, handbills, posters, cards, stereopticon slides, radio, newspapers, telephone directory, television, motion pictures, or public address systems; making use of any advertising statements of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional service in a superior manner; advertising prices for professional service; advertising credit or terms of credit; advertising by means of electric sign, illuminated sign, sign that sets forth more than the name, profession, title (such as D.D.S. or D.M.D.), and office hours of the dentist, sign more than six (6) inches in~~

~~height, or display the lettering of which is more than six (6) inches in height; advertising by means of a sign or display that contains or is a representation or reproduction of a tooth, bridgework, or any portion of the human head; advertising free dental work or free examinations or advertising to guarantee any dental service or to perform any dental operation or act painlessly; or employing or making use of advertising solicitors or free publicity press agents.~~

~~(4) Unprofessional conduct does not include the use of professional cards that contain only a name, title (such as D.D.S. or D.M.D.), address, telephone number, and office hours. It is unprofessional conduct for any dentist to announce or hold himself out~~] to the public as being especially qualified in any ***specialty***[~~branch~~] of dentistry without having obtained a license as a specialist therein from the board.

Section 7. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of nine (9) members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board.

(2) (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four (4) years, and until his successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member[~~ except the secretary-treasurer~~] shall receive[~~ as~~] compensation ***in an amount set in administrative regulations promulgated by the board, not to exceed one hundred twenty-five dollars ($125),***[~~fifty dollars ($50)~~] for each day actually engaged in the duties of his office.[~~ The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.~~]

Section 8. KRS 313.300 is amended to read as follows:

(1) Any eligible person desiring to practice dental hygiene shall make written application to the board[~~ to take the examination~~]. ***The***[~~Such~~] application shall be accompanied[~~ by a written recommendation of two (2) reputable, licensed dentists and~~] by ***a licensing fee, not to exceed sixty-five dollars ($65) per year, set in administrative regulations promulgated***[~~an examination fee of twenty-five dollars ($25), which sum is authorized to be charged for each examination~~] by the board.

(2) As soon as the board has determined that an applicant has successfully passed the ***required*** examination, a license to practice dental hygiene in this state shall be issued by the board to ***the***[~~such~~] applicant. The license shall be for ***two (2)***[~~one (1)~~] calendar ***years***[~~year~~] or for the remaining portion thereof if issued as of a date after January 1. Each license shall be renewed ***biennially***[~~from year to year~~], except for cause as herein provided.

(3) The board shall ***promulgate administrative regulations to set an amount not to exceed twenty-five dollars ($25)***[~~charge ten dollars ($10)~~] for each[~~ license certificate or~~] duplicate license certificate issued, which[~~ sum~~] shall be paid in advance or at the time the license is issued.

Section 9. KRS 313.303 is amended to read as follows:

(1) The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who ***is a graduate of and has a diploma from a dental hygiene school accredited at the time of the applicant's graduation and has for the five (5) years immediately preceding the filing of the application been engaged in the active practice of dental hygiene; provided that the applicant is legally authorized to practice dental hygiene in a state or territory of the United States, the District of Columbia, or Canada. Actively engaging in the teaching of dental hygiene shall be considered actively engaged in the practice of dental hygiene***[~~furnishes satisfactory proof that the applicant is a graduate of an accredited school of dental hygiene in any state or territory of the United States or the District of Columbia and who holds a license from a similar dental board having requirements and standards equal to or greater than those of this state.~~]

~~(2) An application for the license provided by this section shall be made on forms prescribed by the board and accompanied by:~~

~~(a) A fee for review of qualifications of the applicant of twenty-five dollars ($25); and~~

~~(b) A recommendation from the dental board of the state or territory of the United States or the District of Columbia where the applicant has practiced.~~

~~(3) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia where the applicant has practiced grants a similar privilege to applicants holding a dental hygienist's license from this state~~].

(2) The board shall promulgate administrative regulations to set the fee, which shall not exceed one hundred dollars ($100), for reviewing qualifications of an applicant under this section.

The House Committee Substitute No. 1 to **SB 121** is as follows:

SB 121, AN ACT relating to dentists and dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.035 is amended to read as follows:

(1) Upon receiving an application for licensure and the required fee as ***promulgated by the board in administrative regulations, which shall not exceed one hundred fifty dollars ($150)***[~~established by the board~~], the board may issue, without examination, a student limited license to any person who is a graduate of ***an accredited***[~~a~~] dental school[~~approved by the board~~] and enrolled in a resident or post-graduate program conducted by or associated with one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school where the person is a student and may only provide professional services to patients of these programs.

(2) Upon receiving an application for licensure***,***[~~ and~~] the required fee as ***promulgated by the board in administrative regulations but not to exceed one hundred fifty dollars ($150), and justification and dossier from the dean of the applicant's dental school***[~~established by the board~~], the board may issue, without examination, a teaching limited license to a person who is a graduate of ***an accredited***[~~a~~] dental school[~~ or post-graduate dental program approved by the board~~] and who has received an appointment as a[~~ full-time~~] faculty member of one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school of which the person is a faculty member and may only provide professional services to patients of these programs.

(3) Student limited licenses and teaching limited licenses shall be subject to annual renewal and shall automatically expire upon termination of the holder's status as a student or faculty member of the respective dental school of the Commonwealth.

(4) The holders of limited licenses described in this section shall have, within the scope of their respective licensures, all the duties and responsibilities of dental licensure imposed by this chapter and may be disciplined pursuant to KRS 313.130.

Section 2. KRS 313.040 is amended to read as follows:

(1) An applicant for a license to practice dentistry shall be of good moral character and at least eighteen (18) years of age at the time of making the application. The application shall be accompanied by evidence satisfactory to the board that the applicant:

(a) Has completed the requirements of KRS 214.615(1); and

(b) Is a graduate of and has a diploma from a[~~ reputable~~] dental college ***accredited at the time of the applicant's graduation***[~~, school or department of a reputable university, rated as acceptable by the board.~~

~~The board shall rate dental colleges, schools, or departments of a university, or accept the ratings issued by accredited bodies approved by it. The application shall be made to the board in writing. It shall be accompanied by an examination fee of fifty dollars ($50), payable to the secretary-treasurer~~].

(2) No person shall file or attempt to file ***false, misleading, or deceptive information on an application for licensure***[~~as his own the diploma or license of another, or a forged affidavit of identification or qualification~~].

Section 3. KRS 313.045 is amended to read as follows:

(1)[~~The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who furnishes satisfactory proof that he is a graduate of, and has a diploma from, a reputable dental college, school or department of a university accredited in the manner provided by KRS 313.040, and who holds a license from a dental board similar to the board under requirements and standard equal to or higher than those of this state.~~

~~(2) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia issuing the license referred to in this section affords similar privileges to a dentist of Kentucky holding a license from the board who removes to or desires to practice his profession in such state or territory of the United States or the District of~~

~~Columbia.~~

~~(3) Where there is no reciprocity agreement,]~~The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who ***is a graduate of and has a diploma from a dental college accredited at the time of the applicant's graduation and***[~~,~~] for five (5) consecutive years next preceding the filing of ***the***[~~his~~] application, has been engaged in the active practice of dentistry; provided, that ***the applicant***[~~he~~] was legally authorized to practice dentistry in a state or territory of the United States,[~~ or~~] the District of Columbia; ***or Canada***[~~and, further provided, that his qualifications for such authorization were equal to or higher than those of this state~~]. Actively engaging in the teaching of dentistry shall be considered actively engaged in the practice of dentistry.

(2)[~~(4)~~]The fee for reviewing the qualifications of an applicant under this section shall be ***promulgated by the board in administrative regulations and shall not exceed two hundred dollars ($200)***[~~fifty dollars ($50) and the fee for issuing a license certificate shall be ten dollars ($10)~~].

Section 4. KRS 313.070 is amended to read as follows:

The board shall promulgate administrative regulations in accordance with Chapter 13A to establish appropriate fees for application, examination, licensing which shall not exceed one hundred fifty dollars ($150) per year, and other fees authorized[~~In addition to the fifty dollar ($50) examination fee required in KRS 313.040, a fee of ten dollars ($10) shall be paid to the secretary-treasurer for every license certificate and ten dollars ($10) for every duplicate license certificate issued~~] by the board.

Section 5. KRS 313.130 is amended to read as follows:

(1) The board may reprimand or place on probation, or may revoke, suspend, refuse to renew, or refuse to issue a license to any dentist for any of the following causes:

(a)[~~(1)~~]Conviction of any felony or conviction of only those misdemeanors involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(b)[~~(2)~~]Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(c)[~~(3)~~]Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(d)[~~(4)~~]Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter.

(e)[~~(5)~~]Addiction to a drug habit.

(f)[~~(6)~~] Chronic or persistent alcoholism.

(g)[~~(7)~~][~~Such ~~]Physical or mental disability, or other condition, that ***would make*** continued practice[~~ would be~~] dangerous to patients or to the public.

(2) The board may administer fines for the causes in paragraphs (a) to (d) of subsection (1) of this section.

Section 6. KRS 313.140 is amended to read as follows:

Unprofessional conduct includes, but is not limited to, the following acts:

(1) Employing ***any unlicensed***[~~ "cappers" or "steerers" to obtain business; or employing directly or indirectly any student, or any suspended or unlicensed dentist or other~~] person to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malpositions or malformations thereof.

(2) Obtaining any fee by fraud or misrepresentation;[~~ willfully betraying any professional secrets;~~] habitual intemperance, gross immorality, or the commission of a criminal operation;[~~ advertising to use drugs, patents, nostrums, or proprietary medicines;~~] or splitting fees.

(3) ***Representing himself or herself***[~~Advertising for dental patronage by means of circulars, handbills, posters, cards, stereopticon slides, radio, newspapers, telephone directory, television, motion pictures, or public address systems; making use of any advertising statements of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional service in a superior manner; advertising prices for professional service; advertising credit or terms of credit; advertising by means of electric sign, illuminated sign, sign that sets forth more than the name, profession, title (such as D.D.S. or D.M.D.), and office hours of the dentist, sign more than six (6) inches in height, or display the lettering of which is more than six (6) inches in height; advertising by means of a sign or display that contains or is a representation or reproduction of a tooth, bridgework, or any portion of the human head; advertising free dental work or free examinations or advertising to guarantee any dental service or to perform any dental operation or act painlessly; or employing or making use of advertising solicitors or free publicity press agents.~~

~~(4) Unprofessional conduct does not include the use of professional cards that contain only a name, title (such as D.D.S. or D.M.D.), address, telephone number, and office hours. It is unprofessional conduct for any dentist to announce or hold himself out~~] to the public as being especially qualified in any ***specialty***[~~branch~~] of dentistry without having obtained a license as a specialist therein from the board.

Section 7. KRS 313.200 is amended to read as follows:

(1) When the appointments have been made as provided in this section, the Kentucky Board of Dentistry shall consist of nine (9) members, each appointed by the Governor. Seven (7) members of the board shall be licensed dentists appointed from a list of three (3) names recommended for each board position by the resident licensed dentists of Kentucky at an annual election at a time and place selected by the Kentucky Board of Dentistry. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member of the board shall be a dental hygienist licensed to practice dental hygiene in the Commonwealth. Each appointment to the board of a licensed dental hygienist shall be made from a list of three (3) names recommended for this position by the resident licensed dental hygienists of Kentucky at an annual election at a time and place selected by the board.

(2) (a) Each dentist member shall have been an actual resident and licensed practicing dentist of this state for not less than five (5) years immediately preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(b) Each dental hygienist member shall have been an actual resident dental hygienist and licensed practicing dental hygienist in this state for not less than five (5) years preceding his appointment to the board. He shall not be in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business.

(3) Each member of the board shall hold office for four (4) years, and until his successor is appointed and qualifies, except that no member shall serve more than two (2) consecutive terms.

(4) Any vacancy shall be filled for the unexpired term by the Governor in accordance with the provisions of subsection (1) of this section.

(5) Each member of the board shall receive any necessary expenses incurred in attending its meetings. Each member~~[except the secretary-treasurer]~~ shall receive~~[as]~~ compensation ***in an amount set in administrative regulations promulgated by the board, not to exceed one hundred twenty-five dollars ($125),***~~[fifty dollars ($50)]~~ for each day actually engaged in the duties of his office.~~[The secretary-treasurer shall receive an annual compensation to be established by the board at its annual session.]~~

Section 8. KRS 313.300 is amended to read as follows:

(1) Any eligible person desiring to practice dental hygiene shall make written application to the board~~[to take the examination]~~. ***The***~~[Such]~~ application shall be accompanied~~[by a written recommendation of two (2) reputable, licensed dentists and]~~ by ***a licensing fee, not to exceed sixty-five dollars ($65) per year, set in administrative regulations promulgated***~~[an examination fee of twenty-five dollars ($25), which sum is authorized to be charged for each examination]~~ by the board.

(2) As soon as the board has determined that an applicant has successfully passed the ***required*** examination, a license to practice dental hygiene in this state shall be issued by the board to ***the***~~[such]~~ applicant. The license shall be for ***two (2)***~~[one (1)]~~ calendar ***years***~~[year]~~ or for the remaining portion thereof if issued as of a date after January 1. Each license shall be renewed ***biennially***~~[from year to year]~~, except for cause as herein provided.

(3) The board shall ***promulgate administrative regulations to set an amount not to exceed twenty-five dollars ($25)***~~[charge ten dollars ($10)]~~ for each~~[license certificate or]~~ duplicate license certificate issued, which~~[sum]~~ shall be paid in advance or at the time the license is issued.

Section 9. KRS 313.303 is amended to read as follows:

(1) The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who ***is a graduate of and has a diploma from a dental hygiene school accredited at the time of the applicant's graduation and has for the five (5) years immediately preceding the filing of the application been engaged in the active practice of dental hygiene; provided that the applicant is legally authorized to practice dental hygiene in a state or territory of the United States, the District of Columbia, or Canada. Actively engaging in the teaching of dental hygiene shall be considered actively engaged in the practice of dental hygiene***~~[furnishes satisfactory proof that the applicant is a graduate of an accredited school of dental hygiene in any state or territory of the United States or the District of Columbia and who holds a license from a similar dental board having requirements and standards equal to or greater than those of this state.~~

~~(2) An application for the license provided by this section shall be made on forms prescribed by the board and accompanied by:~~

~~(a) A fee for review of qualifications of the applicant of twenty-five dollars ($25); and~~

~~(b) A recommendation from the dental board of the state or territory of the United States or the District of Columbia where the applicant has practiced.~~

~~(3) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia where the applicant has practiced grants a similar privilege to applicants holding a dental hygienist's license from this~~

~~state~~].

(2) The board shall promulgate administrative regulations to set the fee, which shall not exceed one hundred dollars ($100), for reviewing qualifications of an applicant under this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) It is the responsibility of the legislature to establish public policy to improve the quality of health care to Kentuckians and to provide mechanisms for consumer protection;

(2) Proponents argue that the licensing of denturists would result in improvements to the quality of health care to Kentuckians, including better oral care, provide cost-effective alternatives for denture care services and products, and result in increased access to dental services generally; and

(3) The most prudent approach to determine whether denturists can practice without harming the public health is to establish a denturitry "pilot project" through which denturists may be provisionally licensed to practice denturitry and their practice closely monitored over a set period of time.

SECTION 11. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

As used in Sections 10 to 23 of this Act, unless the context otherwise requires:

(1) "Office" means the Office of Aging Services within the Cabinet for Families and Children, established under KRS Chapter 194B;

(2) "Committee" means the Denturitry Oversight Committee established under Section 16 of this Act;

(3) "Denture" means a removable full or partial upper or lower dental appliance to be worn in the mouth to replace missing natural teeth;

(4) "Denturist" means a person provisionally licensed under Sections 10 to 23 of this Act to practice denturitry;

(5) "Denturitry pilot project" means a program established in Sections 10 to 23 of this Act to provisionally license denturists for a specified period of time to engage in the practice of denturitry under controlled conditions to determine competency to engage in permanent practice;

(6) "Practice of denturitry" means: the construction, repair, relining, reproduction, adjusting, and fitting of a denture into the oral cavity of a person to replace missing natural teeth; and

(7) "Unprofessional conduct" means willful acts of negligence or a pattern of continued and repeated malpractice, negligence, or incompetence, or illegal or unethical behavior in the course of the practice of denturitry.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of KRS Chapter 313 notwithstanding, no person shall practice denturitry or perform any of the duties usually performed by a denturist unless the person at the time holds a valid provisional license to practice denturitry in the Commonwealth of Kentucky under Sections 10 to 23 of this Act.

(2) A person who is not licensed as a denturist under subsection (1) of this section shall not hold himself or herself out to the public as a denturist or use any terms, titles, or abbreviations that express or imply that the person is licensed as a denturist.

SECTION 13. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 10 to 23 of this Act shall not apply to persons licensed or registered under any other provision of the Kentucky Revised Statutes, including but not limited to dentists and dental laboratory technicians or students within accredited training programs of these professions. Nothing in Sections 10 to 23 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons practice.

(2) Nothing in Sections 10 to 23 of this Act shall be construed to prohibit or interfere with the ability of a licensed dentist or registered dental laboratory technician to perform those activities that are associated with their practices, respectively, as provided in KRS Chapter 313.

(3) Nothing in Sections 10 to 23 of this Act shall be construed to prohibit or interfere with the practice of denturitry by students enrolled in a school approved by the committee, if the students only perform services in accordance with a course of instruction or an assignment from an instructor.

(4) Nothing in Sections 10 to 23 of this Act nor any other provision of KRS Chapter 313 shall be construed to prohibit or interfere with the ability of a denturist to enter into a partnership or other business association with a dentist, if the association will not impede the independent professional judgment of either party.

SECTION 14. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The office, with the concurrence of the committee, may promulgate administrative regulations in accordance with KRS Chapter 13A and Sections 10 to 23 of this Act that:

(1) Establish practice standards and protocols for the practice of denturitry that are reasonable and necessary to protect

the public health and safety;

(2) Establish an examination process for applicants for licenses and determine the passing grade;

(3) Establish a process for receiving and investigating complaints against licensed denturists and for taking appropriate disciplinary action; and

(4) Establish fees for examinations, licenses, and renewal of licenses that may not in aggregate exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of the denturitry pilot project.

SECTION 15. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The office shall issue a license as a denturist to an applicant who:

(a) Submits a completed application;

(b) Pays the appropriate fees;

(c) Documents at least two (2) years of formal education in dental laboratory technology;

(d) Documents at least two (2) years of formal education in denturitry that includes courses in head and oral anatomy and physiology, oral pathology, and microbiology;

(e) Documents at least one (1) year of full-time equivalent experience under the supervision of a licensed denturist;

(f) Has completed the education course on human immunodeficiency virus and acquired immunodeficiency syndrome described in KRS 214.610; and

(g) Passes an examination approved in accordance with Section 17 of this Act.

(2) An applicant for a license under subsection (1) of this section may substitute additional experience for the education required in subsection (1)(c) of this section on a year-for-year basis.

(3) Until January 1, 2001, a person may be licensed as a denturist without examination, if he or she can document:

(a) A minimum of ten (10) years of full-time equivalent experience in clinical practicum setting; or

(b) A minimum of three (3) years of full-time equivalent experience in a clinical practicum setting, with at least two (2) years of this experience being in a clinical practicum setting under the direct supervision of a licensed dentist.

(4) Any person who holds a valid license issued by another state, territory, or other governmental jurisdiction to practice denturitry shall be issued a license to practice in Kentucky upon application and submittal of the applicable fees, if the requirements of the licensing jurisdiction are substantially equivalent to those of Kentucky.

SECTION 16. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The Denturitry Oversight Committee of the Office of Aging Services is created. The committee shall consist of seven (7) members, with members appointed as follows:

(a) Two (2) members shall be dentists licensed in the Commonwealth of Kentucky and appointed by the Kentucky Board of Dentistry, one (1) of whom shall be a member of the board;

(b) Two (2) members shall each have at least ten (10) years of consecutive full-time equivalent experience in constructing dentures and shall be appointed by the Kentucky Association of Denturists; and

(c) Three (3) members shall be consumer advocates as follows:

1. The director of the Division of Consumer Protection within the Office of the Attorney General, or his or her designee;

2. The secretary of the Cabinet for Health Services, or his or her designee; and

3. A member of a senior citizens organization that represents a large number of consumers and has statewide membership, appointed by the Governor.

(2) Each member of the committee shall hold office for the term of the pilot project or until resignation.

(3) Any vacancy shall be filled for the remainder of the unexpired term in accordance with the provisions of subsection (1) of this section.

(4) Each member of the committee shall serve without compensation but shall receive reimbursement for any necessary expenses incurred in attending its meetings or engaging in other official business.

(5) The committee shall, in general terms, provide management oversight for the operation of the denturitry pilot project. Specifically, the committee shall:

(a) Provide consultation to the office in developing appropriate practice standards and protocols for the practice of denturitry;

(b) Maintain the records referenced in Section 21 that licensed denturists are required to submit to the committee;

(c) Make a recommendation to the office, when appropriate, for an action to be taken against a denturist that affects his or her license in accordance with Section 20; and

(d) Evaluate all records and documentation accrued during the course of the pilot project and make a recommendation to the General Assembly regarding continuance or discontinuance of the licensing of denturists.

SECTION 17. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The office, with the concurrence of the committee, shall approve and administer an examination for licensing under Sections 10 to 23 of this Act. The examination shall determine the qualifications, fitness, and ability of the applicant to practice denturitry. The examination may be written or clinical, or both.

(2) An examination shall be held at least annually.

(3) The first examination shall be conducted not later than October 1, 2000.

(4) The examination for a denturist license shall include the following subjects:

(a) Partial denture construction and design;

(b) Clinical dental technology;

(c) Dental laboratory technology;

(d) Clinical jurisprudence;

(e) Asepsis;

(f) Medical emergencies;

(g) Cardiopulmonary resuscitation;

(h) Head and oral anatomy and physiology;

(i) Oral pathology; and

(j) Microbiology.

(5) Upon payment of the appropriate fee, an applicant who fails an examination may retake the examination.

SECTION 18. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A denturist shall refer a patient to a dentist or a physician and not practice denturitry if the denturist identifies:

(a) An abnormality or disease process in the patient's oral cavity that requires medical or dental treatment; or

(b) The need for tissue or teeth modification to assure proper fit of a partial or full denture.

(2) If a denturist refers a patient to a dentist or a physician under subsection (1) of this section, the denturist shall not practice denturitry until corrective oral treatment has been successfully completed and the patient is released from the care of the dentist or physician.

SECTION 19. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person, including but not limited to consumers, licensees, corporations, organizations, health-care facilities, and state and local government agencies, may submit a written complaint to the committee charging a licensed denturist with unprofessional conduct and specifying the grounds therefor. If the committee determines that the complaint merits investigation, or if the committee has reason to believe, without a written complaint, that a licensed denturist may have engaged in unprofessional conduct, the committee shall request the office to investigate to determine whether the allegations are substantiated. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

(2) Every licensed denturist shall conspicuously display a sign at each office location where denturitry services are provided notifying the public that written complaints concerning denturitry services may be forwarded to the committee for investigation. The sign shall be written in clear and legible letters of not less than one (1) inch in height, and contain the following statement: "Please address any written complaints regarding the services provided by the denturist to the Denturitry Oversight Committee of the Office of Aging Services."

(3) Each complaint received by the committee shall be recorded and shall include the licensee's name, name of complaining party, date of complaint, brief statement of complaint, and its ultimate disposition. Complaint records shall be open for public inspection upon final disposition.

(4) The committee may initiate an investigation on any complaint received, or on its own volition. The office shall conduct the investigation and report its findings to the committee. If the investigation of a complaint substantiates that an offense has been committed, the committee shall recommend that the office take disciplinary action that is commensurate with the nature, severity, and frequency of the offense.

SECTION 20. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Upon recommendation by the committee, the office may:

(a) Refuse to issue or renew a license of a denturist;

(b) Suspend, revoke, or impose probationary conditions upon a licensee;

(c) Impose an administrative fine;

(d) Issue a written reprimand;

(e) Limit a licensee's scope of practice;

(f) Order remedial education or retesting; or

(g) Any combination thereof regarding any licensee upon proof of any of the following causes:

1. Conviction of any felony or conviction of only those misdemeanors involving moral turpitude;

2. Gross malpractice or incompetence;

3. Mental or physical health that would endanger public health or safety;

4. Selling, renting, or lending to any person his or her license, or illegally or fraudulently obtaining a license from the office;

5. Unprofessional conduct;

6. Violating any of the provisions of Sections 10 to 23 of this Act or any lawful order; and

7. Failure to comply with Sections 10 to 23 of this Act or the administrative regulations of the office.

(2) A licensee may appeal a suspension or revocation of a license within thirty (30) days of the date of notification of action. Upon appeal, the office shall schedule an administrative hearing in accordance with KRS Chapter 13B.

SECTION 21. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

Each licensed denturist shall submit to the committee, on a quarterly basis:

(1) Information detailing his or her specific practice including, for each patient served, the patient's name, address, telephone number, services provided, cost of services rendered, and payment method; and

(2) Any other information that the committee deems necessary to collect to aid in analysis of the efficacy of the denturitry pilot project.

SECTION 22. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) During the course of the denturitry pilot project, the committee shall:

(a) Review and analyze the information collected from denturists referred to in Section 21 of this Act;

(b) Review and analyze the types and dispositions of any written complaints considered by the committee and office, including but not limited to any disciplinary actions imposed by the office under Sections 19 and 20 of this Act; and

(c) Review and analyze relevant research and any other material that would provide objective information pertinent to issues under consideration.

(2) No later than July 1, 2005, the committee shall prepare and submit a report to the Legislative Research Commission that recommends whether or not the provisional licensing of denturists should be made permanent, and if so, any recommended statutory or operational changes that should be included in enabling legislation to be considered by the 2006 General Assembly. If permanent licensure is not recommended and enabling legislation not enacted, provisional licensure under Sections 10 to 23 of this Act shall terminate effective July 1, 2006.

SECTION 23. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Any person who practices or attempts to practice denturitry without being licensed under Sections 10 to 23 of this Act, shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense, and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license, practices or attempts to practice denturitry shall constitute a separate offense.

(2) Any person who violates any provision of Sections 10 to 23 of this Act for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense, and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

The House Committee Amendment No. 1 Title to **SB 121** is as follows:

By amending the title to read as follows:

"AN ACT relating to dental care.".

SB 294, AN ACT relating to Medicaid reimbursement for chiropractic services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health Services ***shall***~~[may]~~ make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

SB 339, AN ACT relating to hospitals and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 2 and 3 of this Act, unless the context otherwise requires:

(1) "Acute care hospital" means an acute care hospital, critical access hospital, or comprehensive physical rehabilitation hospital licensed under KRS Chapter 216B;

(2) "Private psychiatric hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is not a state mental hospital;

(3) "State mental hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is owned and operated by the Commonwealth; and

(4) "University hospital" means a state university teaching hospital, owned and operated by either the University of Kentucky School of Medicine or the University of Louisville School of Medicine.

Section 2. KRS 205.640 is amended to read as follows:

(1)[~~ For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.~~

~~(2)~~] The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(2)[~~(3)~~]The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury ***and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section***[~~to the credit of the fund~~]. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter,[~~(4)The "Medical Assistance Indigent Trust Fund" (MAIT) shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.~~

~~(5) An amount, necessary to result in a total fund of ninety-three million dollars ($93,000,000) for fiscal year 1998-99, and ninety-four million dollars ($94,000,000) for fiscal year 1999-2000 including~~] provider tax revenues and ***state and*** federal matching funds[~~, to the extent possible without exceeding Kentucky's federal disproportionate share hospital cap,~~] shall be ***used to fund***[~~transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding~~] the disproportionate share program established by the commissioner of Medicaid services. ***Disproportionate share funds shall be divided into three (3) pools for distribution as follows:***

1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;

2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and

3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

(b)[~~(a)~~]The ***MART***[~~MAIT~~] fund shall be used to compensate ***acute care hospitals, private psychiatric hospitals, and university*** hospitals qualifying for the disproportionate share program for ***uncompensated*** service provided by the hospitals to[~~ Medicaid recipients beyond the covered days and~~] individuals and families with total annual incomes and resources up to one hundred[~~ fifty~~] percent ***(100%)***[~~(150%)~~] of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health Services in accordance with this section.

(c)[~~(b)~~]An individual hospital shall receive distributions[~~ from the MAIT fund~~] for indigent care provided by that hospital ***that***[~~if the care~~] meets the guidelines established in ***paragraph***[~~paragraphs~~] (a)[~~ and (b)~~] of this subsection[~~ and is documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate; provided, however, that the Medicaid rate shall not exceed the Medicare upper limit~~].

(d)[~~(c)~~]Distributions ***to acute care and private psychiatric hospitals shall be made as follows:***

1. The department shall calculate an indigent care factor for each hospital annually. The indigent care

factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.

2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.[~~to hospitals from the MAIT fund shall be made on a quarterly basis. One-fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:~~]

a.[~~1.~~] Hospitals shall report ***uncompensated*** care provided to ***qualified***[~~Medicaid recipients beyond the covered days and to~~] individuals and families with total annual incomes and resources up to one hundred[~~ fifty~~] percent ***(100%)***[~~(150%)~~] of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health Services on a quarterly basis***. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year***.[~~The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20, and October 20, of each year thereafter.~~]

b. The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment[~~2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Health Services, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the hospital's Medicaid rate as established annually by the Department of Medicaid Services~~].

c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1[~~3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Health Services, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims~~].

(e) For fiscal year 2000-2001 and continuing annually thereafter, the department shall issue to each hospital one (1) lump sum payment on October 15, or later as soon as federal financial participation becomes available, for the disproportionate share funds available during the corresponding federal fiscal year[~~(d) For purposes of this section, the Medicaid rate for hospitals with less than two hundred (200) licensed acute care beds means the cost of providing indigent care services as calculated by the department by applying each hospital's cost-to-charge ratio to allowable indigent charges. By July 1 of each year, the Department for Medicaid Services shall calculate the cost-to-charge ratio for each hospital by dividing the hospital's total allowable operating expenses by the hospital's total gross patient charges~~].

(4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental

hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.

(5)[~~(6)~~]Hospitals receiving reimbursement[~~ from the MAIT fund~~] shall not bill patients for services *submitted for reimbursement under this section and Section 3 of this Act. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and Section 3 of this Act. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and Section 3 of this Act shall not bill patients for services* provided to patients not eligible for medical assistance with family incomes up to one hundred[~~ fifty~~] percent *(100%)*[~~(150%)~~] of the federal poverty level.

(6)[~~(7)~~]The secretary of the Cabinet for Health Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(7)[~~(8)~~]All hospitals receiving reimbursement *under this section and Section 3 of this Act*[~~from the MAIT fund~~] shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay."; *and*

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and KRS 42.800 to 42.825[~~;~~

~~(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and~~

~~(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Disproportionate share funds paid to acute care hospitals and private psychiatric hospitals for state fiscal year 1999-2000 shall not exceed one hundred thirty-one million fourteen thousand nine hundred fifty dollars and thirty-one cents ($131,014,950.31). Within forty-five (45) days following the effective date of this Act, acute care hospitals shall be paid the remaining balance of disproportionate share funds available under the federal fiscal year 2000 disproportionate share cap. Payments shall be calculated as follows:

(a) Forty-six percent (46%) of the available disproportionate share funds shall be allocated to acute care hospitals having one hundred (100) or more inpatient days attributable to Medicaid patients who were hospitalized over fourteen (14) days during the period October 1, 1998, through September 30, 1999, as reported to the department. Each hospital shall receive a lump sum payment to be distributed as follows:

1. The department shall calculate the percentage that each acute care hospital's indigent care costs constitutes of the sum of total indigent care costs for all acute care hospitals in this category. For purposes of this subsection, "indigent care costs" means the hospital's inpatient and outpatient care delivered from October 1, 1998, through September 30, 1999, to persons not eligible for medical assistance with family incomes up to one hundred fifty percent (150%) of the federal poverty level, as reported to the department, multiplied by the hospital's inpatient Medicaid rate.

2. Each acute care hospital's distribution shall be calculated by multiplying the acute care hospital's indigent care percentage by the total disproportionate share funds allocated to all hospitals within this group less the minimum payment adjustment required under paragraph (c) of this subsection.

(b) Fifty-four percent (54%) of the available disproportionate share funds shall be allocated to acute care hospitals having less than one hundred (100) inpatient days attributable to Medicaid patients who were hospitalized over fourteen (14) days during the period October 1, 1998, through September 30, 1999, as reported to the department.

1. The department shall calculate the percentage that each acute care hospital's indigent care costs constitutes of the sum of total indigent care costs for all acute care hospitals in this category. For purposes of this subsection, "indigent care costs" means a hospital's inpatient and outpatient care delivered from October 1, 1998, through September 30, 1999, to persons not eligible for medical assistance with family incomes up to one hundred fifty percent (150%) of the federal poverty level, as reported to the department, multiplied by the hospital's inpatient Medicaid rate.

2. Each hospital's distribution shall be calculated by multiplying the hospital's indigent care percentage by the total disproportionate share funds allocated to all hospitals within this group less the minimum payment adjustment required under paragraph (c) of this subsection.

(c) The payment made to each hospital under paragraphs (a) and (b) of this subsection shall be at least equal to one hundred fifty thousand dollars ($150,000) but no greater than the hospital's actual indigent care costs reported to the department for services rendered to persons who met the program requirements for eligibility from July, 1999, through March, 2000, that were not reimbursed under the disproportionate share program.

(2) If federal law governing disproportionate share hospital payments changes, the Department for Medicaid Services shall have authority to promulgate administrative regulations in accordance with KRS Chapter 13A to comply with the changes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, if the Federal Health Care Financing Administration issues a final regulation establishing an outpatient Medicare prospective payment system for hospitals that requires that an outpatient health facility operated by the hospital be under the same license as the hospital to achieve provider-based status, the cabinet shall, at the hospital's request, issue a new license to a hospital that owns and operates an existing or newly established outpatient health facility that lists each location operated by the hospital.

(2) Any outpatient health facility listed on the hospital's license under subsection (1) of this section shall:

(a) Comply with the applicable licensure regulations that pertain to the type of health services provided; and

(b) Prior to the establishment of a health facility, the operation of a health facility, or the provision of health services or the addition of a health service at a location other than the hospital's main campus, obtain a certificate of need if a certificate of need would otherwise be required in the absence of subsection (1) of this section. Licensure of the outpatient health facility or service under the same license as the hospital pursuant to subsection (1) of this section shall not eliminate the requirement for a certificate of need.

Section 5. Whereas the burden of uncompensated and undercompensated care is increasing on a daily basis upon hospitals in the Commonwealth and the financial viability of hospitals is at stake, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 267, SB 324, SB 330**

State Government: **SB 87, SB 134, SB 248, SB 280, SB 315**

Senate Message

Announcing passage of **SB 42, SB 108, SB 317, SB 335, SB 343, SCR 88, HB 545,** and **HB 656**. (Time: 2:15 p.m.)

Message in regard to **HB 300**: The Senate has passed **HB 300** with Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 647**: The Senate has passed **HB 647** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Calendar

HB 821, HB 897, SB 172, HB 810, HB 893, HB 999, HB 1024, SB 128, SB 227, SB 272, HB 962, HB 1020, HB 680, HB 102, HB 271, HB 612, HB 704, HB 807, HJR 129, HB 878, HR 140, SB 207, and **SCR 61** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 288, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of Committee Amendment No. 1 to **HB 288**. Agreed.

Representative A. Arnold moved the adoption of Floor Amendment No. 1 to **HB 288**. Agreed.

Representative A. Arnold moved that **HB 288**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See March 15, 2000 roll call on **HB 288** - Appendix.)

HB 288, as amended, was passed.

Representative A. Arnold moved the adoption of Floor Amendment No. 2 Title to **HB 288**. Agreed; and the title was agreed to.

Representative A. Arnold moved that the vote by which **HB 288**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 566, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 566**. Agreed.

Representative Jenkins moved that **HB 566**, by way of Committee Substitute, be passed.

Representative Gray moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 566**.

Representative DeWeese inquired if Floor Amendment No. 1 to the Committee Substitute to **HB 566** was germane.

The Speaker ruled Floor Amendment No. 1 to the Committee Substitute to **HB 566** was not germane.

Representative Gray moved that the rules be suspended to consider Floor Amendment No. 1 to the Committee Substitute to **HB 566**.

The Speaker ruled the only way to consider Floor Amendment No. 1 to the Committee Substitute to **HB 566** is to challenge the ruling of the Chair.

Representative Gray declined to challenge the ruling of the Chair.

Representative Jenkins moved that **HB 566**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 46, Nays 49**. (See March 15, 2000 roll call on **HB 566** - Appendix.)

HB 566, by way of Committee Substitute, was defeated.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 656** and **HB 545** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:00 p.m.)

Orders of the Day (Continued)

HB 855, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 855**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 855**. Agreed.

Representative Barrows moved that **HB 855**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 63, Nays 31**. (See March 15, 2000 roll call on **HB 855** - Appendix.)

HB 855, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 855**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 538 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 538** be passed.

On the roll call the vote was: **Yeas 86, Nays 7.** (See March 15 , 2000 roll call on **HB 538** - Appendix.)

HB 538 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 538** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 877 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HB 877** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 15 , 2000 roll call on **HB 877** - Appendix.)

HB 877 was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 877** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 902, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 902**. Agreed.

Representative Anderson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 902**. Agreed.

Representative Geveden moved that **HB 902**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 15, 2000 roll call on **HB 902** - Appendix.)

HB 902, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 902**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 545 and **HB 656** delivered to the Senate and signed by the President. Delivered to the Governor on March 15, 2000, at 3:31 p.m.

Orders of the Day (Continued)

HB 818, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of Committee Amendment No. 1 to **HB 818**. Agreed.

Representative Nesler moved that **HB 818**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 1.** (See March 15, 2000 roll call on **HB 818** - Appendix.)

HB 818, as amended, was passed.

Representative Nesler moved the adoption of Committee Amendment No. 2 Title to **HB 818**. Agreed; and the title was agreed to.

Representative Nesler moved that the vote by which **HB 818**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 577, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 577**.

Representative J. Adams moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 577**.

Representative Crenshaw inquired if Floor Amendment No. 1 to **HB 577** was in order.

The Speaker ruled Floor Amendment No. 1 to **HB 577** was not in order.

Representative Moberly moved the adoption of the Committee Substitute to **HB 577**. Agreed.

Representative Moberly moved that **HB 577**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 15, 2000 roll call on **HB 577** - Appendix.)

HB 577, by way of Committee Substitute, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 577**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 576**. Agreed.

Representative Moberly moved that **HB 576**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 15, 2000 roll call on **HB 576** - Appendix.)

HB 576, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 576**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 502, with Committee Substitute, Committee Amendments, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 2 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 20 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 17 to the Committee Substitute to **HB 502**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 502**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 502**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 502**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 12 to the Committee Substitute to **HB 502**. Agreed.

The Speaker Pro Tem assumed the Chair.

Representative Anderson moved the adoption of Floor Amendment No. 13 to the Committee Substitute to **HB 502**. Agreed.

Representative Anderson moved the adoption of Floor Amendment No. 16 to the Committee Substitute to **HB 502**. Agreed.

Representative Anderson moved the adoption of Floor Amendment No. 22 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 502**. Agreed.

The Speaker resumed the Chair.

Representative Moberly moved the adoption of Floor Amendment No. 23 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved that **HB 502**, by way of Committee Substitute as amended, be passed.

Representative Bather moved the adoption of Floor Amendment No. 18 to the Committee Substitute to **HB 502**. Agreed.

Representative Bather moved the adoption of Floor Amendment No. 19 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved that **HB 502**, by way of Committee Substitute as amended, be passed.

Representative Ratliff moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 502**.

Representative Stumbo inquired if Floor Amendment No. 2 to the Committee Substitute to **HB 502** was in compliance with House Rule 61.

The Chair ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 502** did not comply with House Rule 61 and was out of order.

Representative Treesh moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 502**.

On the roll call the vote was: **Yeas 31, Nays 58**. (See March 15, 2000 roll call on the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 502**-Appendix.)

Floor Amendment No. 1 to the Committee Substitute to **HB 502** was defeated.

Representative Heleringer moved the adoption of Floor Amendment No. 21 to the Committee Substitute to **HB 502**.

Representative Stein inquired if Floor Amendment No. 21 to the Committee Substitute to **HB 502** was in compliance with House Rule 61.

The Speaker ruled that Floor Amendment No. 21 to the Committee Substitute to **HB 502** was not identified by staff as a piggy back and further did not contain the substantial text of another bill and was not a piggyback.

The Speaker Pro Tem assumed the Chair.

Representative Stein inquired if Floor Amendment No. 21 to the Committee Substitute to **HB 502** violated Rule 61.

The Speaker Pro Tem ruled that Floor Amendment No. 21 to the Committee Substitute to **HB 502** did violate Rule 61.

Representatives Heleringer and Fischer appealed the Ruling of the Chair and asked that the Speaker Pro Tem be removed from the Chair.

The Speaker resumed the Chair.

On the roll call the vote was: **Yeas 24, Nays 55**. (See March 15, 2000 roll call on the motion to remove the Speaker Pro Tem from the Chair-Appendix.)

The motion to remove the Speaker Pro Tem from the Chair was defeated, and the Chair was upheld.

Representative Ford inquired if Floor Amendment No. 21 to the Committee Substitute to **HB 502** was a piggyback.

The Speaker ruled that Floor Amendment No. 21 to the Committee Substitute to **HB 502** was not a piggyback.

Representative Lindsay inquired if Floor Amendment No. 21 to the Committee Substitute to **HB 502** was germane.

The Speaker ruled that Floor Amendment No. 21 to the Committee Substitute to **HB 502** was not germane.

Representative Hoover moved that pursuant to House Rule No. 76, the rules be suspended to consider Floor Amendment No. 2 to the Committee Substitute to **HB 502**.

On the roll call the vote was: **Yeas 37, Nays 50**. (See March 15, 2000 roll call on the motion that the rules be suspended to consider Floor Amendment No. 2 to the Committee Substitute to **HB 502**-Appendix.)

The motion that the rules be suspended to consider Floor Amendment No. 2 to the Committee Substitute to **HB 502** was defeated.

Representative Moberly moved that **HB 502**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 14**. (See March 15, 2000 roll call on **HB 502** - Appendix.)

Representative Stumbo moved that the rules be suspended to reconsider a vote.

On the roll call the vote was: **Yeas 88, Nays 1**. (See March 15, 2000 roll call on the motion that the rules be suspended to reconsider a vote-Appendix)

Representative Stumbo moved that the rules be suspended to act upon Floor Amendment No. 28 to the Committee Substitute to **HB 502** which, was a corrected version of Floor Amendment No. 4 to the Committee Substitute to **HB 502**, and which would replace Floor Amendment No. 4 to the Committee Substitute to **HB 502**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No. 28 to the Committee Substitute to **HB 502**. Agreed.

Representative Moberly moved that **HB 502**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 13**. (See March 15, 2000 roll call on **HB 502** - Appendix.)

HB 502, by way of Committee Substitute as amended, was passed.

Representative Moberly moved the adoption of Committee Amendment No. 3 Title to the Committee Substitute to **HB 502**. Agreed; and the title was agreed to.

Representative Moberly moved that the vote by which **HB 502**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker Pro Tem assumed the Chair.

HJR 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 83** be adopted.

On the roll call the vote was: **Yeas 88, Nays 5**. (See March 15, 2000 roll call on **HJR 83** - Appendix.)

HJR 83 was adopted.

Representative Moberly moved that the vote by which **HJR 83** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 84 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 84** be adopted.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 15, 2000 roll call on **HJR 84** - Appendix.)

HJR 84 was adopted.

The Speaker resumed the Chair.

Representative Moberly moved that the vote by which **HJR 84** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 85 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 85** be adopted.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 15, 2000 roll call on **HJR 85** - Appendix.)

HJR 85 was adopted.

Representative Moberly moved that the vote by which **HJR 85** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 739, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 739**. Agreed.

Representative Rasche moved that **HB 739**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 15, 2000 roll call on **HB 739** - Appendix.)

HB 739, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 739**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 144 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 144** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 15 , 2000 roll call on **HB 144** - Appendix.)

HB 144 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 144** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 316 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HB 316** be passed.

On the roll call the vote was: **Yeas 90, Nays 2**. (See March 15 , 2000 roll call on **HB 316** - Appendix.)

HB 316 was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 316** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 267, with Committee Substitute and Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 267**. Agreed.

Representative Wayne moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 267**. Agreed.

Representative Wayne moved that **HB 267**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 15, 2000 roll call on **HB 267** - Appendix.)

HB 267, by way of Committee Substitute, was passed.

Representative Wayne moved the adoption of Committee Amendment No. 2 Title to the Committee Substitute to **HB 267**. Agreed; and the title was agreed to.

Representative Wayne moved that the vote by which **HB 267**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 278, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Committee Amendment No. 1 to **HB 278**. Agreed.

Representative Damron moved that **HB 278**, as amended, be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 15, 2000 roll call on **HB 278** - Appendix.)

HB 278, as amended, was passed.

Representative Damron moved the adoption of Committee Amendment No. 2 Title to **HB 278**. Agreed; and the title was agreed to.

Representative Damron moved that the vote by which **HB 278**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 950 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 950** be passed.

On the roll call the vote was: **Yeas 82**, **Nays 5**. (See March 15 , 2000 roll call on **HB 950** - Appendix.)

HB 950 was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 950** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 430, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of the Committee Substitute to **HB 430**. Agreed.

Representative Lee moved that **HB 430**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 15, 2000 roll call on **HB 430** - Appendix.)

HB 430, by way of Committee Substitute, was passed.

Representative Lee moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 430**. Agreed; and the title was agreed to.

Representative Lee moved that the vote by which **HB 430**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 213, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of Committee Amendment No. 1 to **HB 213**. Agreed.

Representative Marzian moved that **HB 213**, as amended, be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 15, 2000 roll call on **HB 213** - Appendix.)

HB 213, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 213**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 850, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of the Committee Substitute to **HB 850**. Agreed.

Representative Tapp moved that adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 850**. Agreed.

Representative Collins inquired if Floor Amendment No. 1 to the Committee Substitute to **HB 850** was a piggyback.

The Speaker ruled that Floor Amendment No. 1 to the Committee Substitute to **HB 850** was a piggyback.

Representative Lindsay inquired if, according to Rule 61, the rules must be suspended before action upon a piggyback.

The Speaker responded in the affirmation, but ruled that questions regarding the appropriateness of an amendment must be raised before voting on the amendment.

Representative Buckingham moved that **HB 850**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 15, 2000 roll call on **HB 850** - Appendix.)

HB 850, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 850**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 788, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of Floor Amendment No. 1 to **HB 788**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 2 to **HB 788**. Agreed.

Representative Webb moved that **HB 788**, as amended, be passed.

On the roll call the vote was: **Yeas 85**, **Nays 4**. (See March 15, 2000 roll call on **HB 788** - Appendix.)

HB 788, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 788**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 852, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Committee Amendment No. 1 to **HB 852**. Agreed.

Representative Palumbo moved that **HB 852**, as amended, be passed.

On the roll call the vote was: **Yeas 74**, **Nays 10**. (See March 15, 2000 roll call on **HB 852** - Appendix.)

HB 852, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 852**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 789, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 789**. Agreed.

Representative Westrom moved that **HB 789**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 82**, **Nays 0**. (See March 15, 2000 roll call on **HB 789** - Appendix.)

HB 789, by way of Committee Substitute, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 789**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 895, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of the Committee Substitute to **HB 895**. Agreed.

Representative J. Adams moved that **HB 895**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 0**. (See March 15, 2000 roll call on **HB 895** - Appendix.)

HB 895, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 895**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 121 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HJR 121** be adopted.

On the roll call the vote was: **Yeas 48, Nays 27**. (See March 15, 2000 roll call on **HJR 121** - Appendix.)

HJR 121 was adopted.

Representative Thomas moved that the vote by which **HJR 121** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 181 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 181** be placed back in the Orders of the Day. Agreed.

HB 923 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 923** be passed.

On the roll call the vote was: **Yeas 77, Nays 4**. (See March 15 , 2000 roll call on **HB 923** - Appendix.)

HB 923 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 923** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 824 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 824** be passed.

On the roll call the vote was: **Yeas 87, Nays 1**. (See March 15 , 2000 roll call on **HB 824** - Appendix.)

HB 824 was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 824** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 827 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 827** be passed.

On the roll call the vote was: **Yeas 75, Nays 0**. (See March 15 , 2000 roll call on **HB 827** - Appendix.)

HB 827 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 827** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 979 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 979** be passed.

On the roll call the vote was: **Yeas 75**, **Nays 1**. (See March 15 , 2000 roll call on **HB 979** - Appendix.)

HB 979 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 979** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1011, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 1011**. Agreed.

Representative L. Clark moved that **HB 1011**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 71**, **Nays 6**. (See March 15, 2000 roll call on **HB 1011** - Appendix.)

HB 1011, by way of Committee Substitute, was passed.

Representative L. Clark moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 1011**. Agreed; and the title was agreed to.

Representative L. Clark moved that the vote by which **HB 1011**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 142, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HJR 142**. Agreed.

Representative Riner moved that **HJR 142**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 81**, **Nays 0**. (See March 15, 2000 roll call on **HJR 142** - Appendix.)

HJR 142, by way of Committee Substitute, was adopted.

Representative Riner moved that the vote by which **HJR 142**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 159** be passed.

On the roll call the vote was: **Yeas 83**, **Nays 1**. (See March 15 , 2000 roll call on **HB 159** - Appendix.)

HB 159 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 159** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 182 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 182** be passed.

On the roll call the vote was: **Yeas 80**, **Nays 2**. (See March 15 , 2000 roll call on **HB 182** - Appendix.)

HB 182 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 182** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved the adoption of the Committee Substitute to **HB 178**. Agreed.

Representative Draud moved that **HB 178**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 15, 2000 roll call on **HB 178** - Appendix.)

HB 178, by way of Committee Substitute, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 178**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 421, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HB 421**. Agreed.

Representative Palumbo moved that **HB 421**, as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See March 15, 2000 roll call on **HB 421** - Appendix.)

HB 421, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 421**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 564 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 564** be passed.

On the roll call the vote was: **Yeas 74, Nays 9**. (See March 15 , 2000 roll call on **HB 564** - Appendix.)

HB 564 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 564** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 588, with Floor Amendment and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **HB 588**. Agreed.

Representative Palumbo moved that **HB 588**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 15, 2000 roll call on **HB 588** - Appendix.)

HB 588, as amended, was passed.

Representative Palumbo moved the adoption of Committee Amendment No. 1 Title to **HB 588**. Agreed; and the title was agreed to.

Representative Palumbo moved that the vote by which **HB 588**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 892, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Committee Amendment No. 1 to **HB 892**. Agreed.

Representative Stumbo moved that **HB 892**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See March 15, 2000 roll call on **HB 892** - Appendix.)

HB 892, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 892**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 930, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of Floor Amendment No. 1 to **HB 930**. Agreed.

Representative McKee moved that **HB 930**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 15, 2000 roll call on **HB 930** - Appendix.)

HB 930, as amended, was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 930**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 181, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Floor Amendment No. 2 to **HB 181**. Agreed.

Representative Haydon moved that **HB 181**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 15, 2000 roll call on **HB 181** - Appendix.)

HB 181, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 181**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 939, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **HB 939**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 939**. Agreed.

Representative Heleringer moved that **HB 939**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 15, 2000 roll call on **HB 939** - Appendix.)

HB 939, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 939**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 844, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of Committee Amendment No. 1 to **HB 844**. Agreed.

Representative Webb moved that **HB 844**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 15, 2000 roll call on **HB 844** - Appendix.)

HB 844, as amended, was passed.

Representative Webb moved the adoption of Committee Amendment No. 2 Title to **HB 844**. Agreed; and the title was agreed to.

Representative Webb moved that the vote by which **HB 844**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended and that the three day posting requirement be waived on **SB 341, SB 267, SB 324, SB 330, SB 195, SB 331, SB 245, SB 289,** and **SB 279**. Agreed.

Representative Stumbo moved that **HB 897, HB 865,** and **HB 999** be taken from the Committee on Rules and posted for passage in the regular Orders of the Day for March 16, 2000. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 16, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 158, by Representative Bather: A RESOLUTION urging the Interim Joint Committee on Health and Welfare to establish a subcommittee to explore the issues of nurse staffing, workplace conditions for nurses, and nursing practice, as it relates to quality care and patient safety in the Commonwealth.

HR 159, by Representatives Bather and Bruce: A RESOLUTION requesting the U.S. Attorney's Office to conduct an investigation of the Louisville Police Department.

HR 160, by Representatives C. Belcher, Webb, Coleman, J. Arnold, P. Clark, and Damron: A RESOLUTION declaring the month of May 2000, as Motorcycle Awareness Month.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 279, SB 289, SB 245, SB 195, SB 341**

Motions, Petitions, and Communications (Continued)

Representative Ballard moved the adoption of the following **Legislative Citation No. 115**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations and applause to Travis Ford upon being inducted into the Dawahare's/Kentucky High School Athletic Association Hall of Fame in recognition of his tremendous contributions to the outstanding high school athletic tradition of this fine Commonwealth. Travis Ford was a former player on three teams from Madisonville-North Hopkins High School which advanced to the Sweet Sixteen Tournament, was named to the 1989 Boys' State Basketball All-Tournament team where he contributed greatly to the Maroons' success, and was a three-time All-State honoree. Inasmuch as Travis Ford, now a highly-respected collegiate coach at Campbellsville University, has truly reached a superior level of achievement in the field of athletics, the members of this august body are honored to join Representative Eddie Ballard in commending this talented recipient's full round of accomplishments as an athlete and coach and in honoring him for the recognition he has brought to his community and the Commonwealth of Kentucky. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 115 was adopted without objection.

Representative Palumbo moved the adoption of the following **HR 155**:

HR 155, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joseph H. Silvestri.

With deepest respect and admiration, we pay homage and tribute to Joseph H. Silvestri, and we pause in silent reverence for his soul.

WHEREAS, Joseph H. Silvestri was born on March 15, 1922, a native of Springfield, Ohio, and longtime resident of Fayette County, Kentucky, and he traversed these earthly bounds on June 6, 1999; and

WHEREAS, Joseph H. Silvestri was the loving son of the late Harry Joseph Silvestri and Anna Marcellino Silvestri; he was the devoted husband of fifty-one years to Frances Ockerman Silvestri; he was the loving father of seven children, David, Danny, Mary Lou, Donald, Mark, Steven, and Kenneth Silvestri; and he was the proud grandfather of six granddaughters and a grandson; and

WHEREAS, Joseph H. Silvestri will best be remembered for the wonderful smiles he had for everyone, the love he had for his family, and the perfect happiness he shared with his wife, Frances; and

WHEREAS, all who knew and admired Joseph H. Silvestri will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of Joseph H. Silvestri, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, March 15, 2000, it does so in loving memory and honor of Joseph H. Silvestri.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Frances Ockerman Silvestri, 324 Henry Clay Boulevard, Lexington, Kentucky 40502.

There being no objection **HR 155** was adopted.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 116**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Joseph H. Silvestri and to join with Representative Ruth Ann Palumbo in expressing profound sympathy to all who share in the loss on the passing of this remarkable gentleman, the loving son of the late Harry Joseph Silvestri and Anna Marcellino Silvestri; the devoted husband of Frances Ockerman Silvestri; the beloved father of seven children, David, Danny, Mary Lou, Donald, Mark, Steven and Kenneth Silvestri; and the proud grandfather of six granddaughters and a grandson. Devoted to his family and friends, his memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 116 was adopted without objection.

Representative Allen moved the adoption of the following **Legislative Citation No. 113**.

The House of Representatives of the Commonwealth of Kentucky hereby pays highest tribute to Andrew J. Zagar for the phenomenal skill and enthusiasm that he has demonstrated throughout his twenty-year career in the field of education and which has recently earned him the prestigious WHAS-TV and PNC Bank Excellence in Classroom and Educational Leadership (ExCEL) Award. Inasmuch as this tremendous honor reflects the success of Mr. Zagar's teaching style and the integrity of his educational philosophy, he is highly deserving of praise for the innumerable ways that he has helped his students to reach their full creative potential through his proficient instruction in music, dance and the dramatic arts. The members of this august body are delighted to join Representative Woody Allen in offering sincerest gratitude to this phenomenal educator for the profound interest that he has taken in the education and personal well-being of the youth in his school and community and in extending to him best wishes for success as he continues to shape the lives of the students of this fine Commonwealth. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 113 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 112**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Winston C. Parrott and offers its sincere condolences to his loving wife, Freida Parrott; his devoted daughter, Sandra P. Griffin and her husband, Leo Griffin; his cherished grandson, Jacob Alexander Griffin; his beloved siblings, Betty Copas and Larry Parrott; and a host of other family members and friends who share in the loss of and mourn this highly-regarded citizen of Barbourville, Kentucky. The son of the late Lester L. and Myrtle Blanton Parrott, he was a retired employee of Kentucky Utilities, a farmer and a devoted member of the Artemus Christian Church. The members of this honorable body do solemnly join Representative Jim Stewart in honoring the memory of Winston C. Parrott for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 112 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 117**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes the members of the Kentucky Federation of Women's Clubs who visit the Chambers of this Honorable Body today in support of the Public Libraries of Kentucky. Whereas, public libraries provide direct services within the communities in the areas of early childhood education, universal access to higher education, workforce development, lifelong learning and citizen access to state government; and, whereas libraries serve people of all ages and at all stages of life; and whereas Kentucky ranks 47th of the states in operating funds for libraries; and whereas, the Kentucky Federation of Women's Clubs has been instrumental in supporting and strengthening communities and supports legislation that increases public support for the libraries of this great Commonwealth; therefore, the members of this honorable body are pleased to join with Representative Roger Thomas in expressing appreciation to this outstanding organization which was instrumental in starting most of the public libraries in the Commonwealth and to these outstanding citizens for taking an active role in the legislative process by attending this day's activities in the Chambers of the House of Representatives during the 2000 Regular Session of the Kentucky General Assembly. Done in Frankfort, this fifteenth day of March, in the year two thousand.

Legislative Citation No. 117 was adopted without objection.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 900**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that his vote be changed from "nay" to "yea" on **HB 818**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on **HB 288**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 288**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 1000**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "nay" on **HB 564**. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 923**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 564**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 178**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HJR 121**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 877**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **HB 788**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HJR 84** and **HJR 85**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 788**. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **HB 818** and **HB 267**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 739**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that he be recorded as voting "nay" on **HB 502**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 267**. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HJR 83**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that his vote be changed from "yea" to "nay" on **HB 538**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on Floor Amendment No. 1 to **HB 502**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 566**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that he be recorded as voting "yea" on **HB 538**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **HB 430**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 144**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 1011** and **HJR 142**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 979, HB 159, HB 182, HB 178, HB 421, HB 564, HB 588, HB 892,** and **HJR 141**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 305**, by Representative Feeley:

On page 2, line 21, after "*protocols.*", by inserting "***The documentation and recordkeeping protocols shall include notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health professional, and informed written consent by parents or guardians.***".

Floor Amendment No. 1 to **SB 21**, by Representative Lee:

On page 6, after line 26, by inserting: "Section 2. KRS 224.60-142 is amended to read as follows:

To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2002***[~~2000~~]."

Floor Amendment No. 9 to the Committee Substitute to **HB 366**, by Representative Vincent:

On page 1, line 22, to delete the word "***it***" and to insert "***"limited access facility"***"; and

On page 2, line 10, to delete "***After***" and to delete "***consumed a quantity of alcohol sufficient to establish***"; and

On page 2, line 21, to delete "***After***" and to delete "***consumed a quantity of alcohol sufficient to establish***"; and

On page 3, line 1, following "(2)" to insert "***With the exception of the results of the tests administered pursuant to subsection (7) of Section 8 of this Act,***"; and

On page 4, line 16, following "***form of***" to insert "***early***"; and

On page 4, lines 23 and 24, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 4, line 26, following "***form of***" to insert "***early***"; and

On page 5, lines 7 and 8, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 5, line 10, following "***form of***" to insert "***early***"; and

On page 5, lines 14 and 15, to delete "***while the person was operating or in physical control of a motor vehicle***"; and

On page 6, line 5 following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 6, line 6, after, "189A" by inserting, "***, except those established in subsection (1) of Section 3 of this Act***" and

On page 6, line 10, following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 6, line 19, following "subsection" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 7, lines 13 and 14, to delete "***, provided that the refusal is established by video or audio recording or a written instrument signed by the person refusing to submit***"; and

On page 7, line 19, following "subsections" to insert "***(5)***" and to bracket and strike through "(4)"; and

On page 7, line 20, following "and" to insert "***(6)***" and to bracket and strike through "(5)"; and

On page 8, line 1, following "for a first offender" by inserting, "***or a person convicted under subsection (1)(e) of Section 2 of this Act***"; and

On page 10, line 25, after, "189A.010" by inserting, "***(1)(a), (b), (c), or (d)***", and

On page 13, line 1, following "***cabinet shall***" to insert "***forthwith***"; and

On page 13, line 21, to place brackets around and strike through "189A.060 or"; and

On page 18, line 18, following "***specified by***" to insert "***Section 2 of this Act and***"; and

On page 19, lines 6 and 7, to delete "***or subsection (1) of Section 12 of this Act***"; and

On page 19, lines 16 and 17, to delete "***or subsection (1) of Section 12 of this Act***; and

On page 19, line 20, by deleting, "***a preponderance of the***" and inserting in lieu thereof, "***clear and convincing***" and

On page 19, lines 25 and 26, to delete "***not longer than the period***" and to insert in lieu thereof "***within the time range specified that***"; and

On page 22, line 2, following "***resulted in***" to insert "***death or serious***"; and

On page 25, line 5, to delete the line in its entirety and by inserting in lieu thereof, "***subsection (1) of Section 2 of this Act as charged; and***"; and

On page 25, line 7, following "***resulted in***" to insert "***death or serious***"; and

On page 25, line 14, following "prior conviction" to insert "***not meeting applicable case law regarding admissibility of a prior conviction***"; and

On page 27, line 26, to delete "***charged with***" and to insert in lieu thereof "***tried for***"; and

On page 28, line 4, following "***these statutes***" to insert "***for offenses arising out of the same course of conduct***"; and

On page 28, line 23, to delete "***At the final sentencing hearing, and***"; and

On page 29, line 4, following "***the clerk***" to insert "***or the Transportation Cabinet as appropriate,***"; and

On page 29, line 7, to delete "***utilize***" and to insert in lieu thereof "***operate***"; and

On page 29, line 11, to delete "***sold***" and to insert "***transferred***"; and

On page 32, line 5, to delete "***and***" and to insert "***or***"; and

On page 32, line 9, to delete "***pursuit, traffic stop, and***"; and

On page 32, line 11, following "entire recording" to insert "***of the field sobriety tests and the entire recording of such portions of the pursuit and traffic stop as were recorded***"; and

On page 39, between lines 11 and 12, by inserting the following:

"Section 26. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS ~~[189A.060,]~~189A.070 ***or***~~[,]~~ and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.", and to renumber subsequent sections accordingly.

Floor Amendment No. 4 to the Committee Substitute to **HB 920**, by Representative Wilkey:

On page 1, line 8, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 1, line 22, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "***Act***";

On page 2, between lines 2 and 3, by inserting the following:

"***(6) Court costs collected under this section shall not be subject to any fees required by KRS 30A.200(4).***"

On page 2, line 26, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 3, line 6, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "***Act***";

On page 3, between lines 20 and 21, by inserting the following:

"***(5) Court costs collected under this section shall not be subject to any fees required by KRS 30A.200(4).***"

On page 7, line 2, by deleting "***damages***" and inserting "***costs***" in lieu thereof;

On page 12, lines 17 through 22, by removing the brackets and strikethroughs; and

On page 12, at the beginning of line 17, by inserting "***(6)***", and by placing brackets and strikethroughs around "(8)";

On page 39, line 18, by inserting brackets around and striking through "subsection", and by deleting "***(2)(a) of***";

On pages 50 to 51, by deleting line 3 on page 50 through line 12 on page 51, and inserting the following in lieu thereof:

"SECTION 32. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks shall be paid, under subsection (5) of Section 1 and subsection (4) of Section 2 of this Act.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund. Money collected from each court cost by a circuit clerk under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act shall be disbursed as follows:

(a) The first fifty-four dollars ($54) from each court cost shall be paid into the general fund;

(b) The next three dollars ($3) from each court cost shall be paid to the crime victims' compensation fund created in Section 11 of this Act;

(c) The next ten dollars ($10) from each court cost shall be paid to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(d) The next six dollars ($6) from each court cost shall be paid to the spinal cord and head injury research fund created in KRS 211.504;

(e) The next seven dollars ($7) from each court cost shall be paid to the traumatic brain injury trust fund as created in Section 31 of this Act;

(f) The next five dollars ($5) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, to be used for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners;

(g) The next ten dollars ($10) from each court cost shall be paid to the sheriff in the county in which each court cost was paid;

(h) The next two dollars ($2) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, for the purpose of paying expenses for the local jails, courthouses, bonds related to them and administration thereof; and

(i) The remaining three dollars ($3) from each court cost shall be paid to the trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries as provided for in KRS 30A.200.

(3) Partial payments of each court cost shall be disbursed to each fund in the order set forth in subsection (2) of this section.";

On page 51, line 21, by deleting "***subsection (2)(a) of***"; and

On page 56, between lines 6 and 7, by inserting the following, and renumbering subsequent sections accordingly:

"Section 37. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. ~~[A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.]~~

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health Services for administrative purposes.".

Floor Amendment No. 22 to **SJR 57**, by Representative Riner:

On page 1, by deleting all whereas clauses on page 1 in their entirety; and

By deleting page 2, 3 and 4 in their entirety; and

by inserting in lieu thereof the following:

"WHEREAS, in the Preamble to Kentucky's Constitution, the Framers acknowledged Almighty God as the source of the peoples' liberty and invoked His blessings on the citizens of the Commonwealth:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution"; and

WHEREAS, in 1992, the Kentucky General Assembly enacted KRS 158.195 to prevent the censorship or suppression of the official Acts of Congress or the writings and speeches of America's Founders and Presidents which contain references to God or the Bible; and

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the governmental power of the state are derived; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: "the judicial laws of God, as they were delivered by Moses be a rule to all the courts in this jurisdiction"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution," emphasized its Biblical presuppositions:

> "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from public school classrooms:

> "We are spending less time in the classroom on the Bible which should be the principal text in our schools . . . ."; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship. . . . May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, President George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared:

> "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . ."; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society, on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated:

> "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of that Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Saviour, Jesus Christ"; and

WHEREAS, President John Quincy Adams, the sixth President of the United States, wrote concerning the civil function of the Mosaic law:

> "The law given from Sinai was a civil and municipal as well as a moral and religious code; it contained many statutes . . . of universal application -- laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws"; and

WHEREAS, in a June, 1778 letter to her son, John Quincy Adams, Abigail Adams reinforced noble values and a sense of ultimate accountability to God which she believed to be the foundation of true greatness:

> "Great learning and superior abilities, should you ever possess them, will be of little value and small estimation, unless virtue, honor, truth, and integrity are added to them. Adhere to those religious sentiments and principles which were early instilled into your mind, and remember that you are accountable to your Maker for all your words and actions"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America:

> "There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that: 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear recognition of the same truth . . . this is a Christian nation' "; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English Language, stated:

> "Moreover, the Bible does what is so invaluable in human life -- it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters -- that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and

WHEREAS, President Woodrow Wilson's letter to the soldiers and sailors of the United States during World War I, recorded in the Congressional Record, advised them:

> "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and, most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, in his book, "Sources of Power," President Jimmy Carter acknowledged the importance of the Mosaic law as a foundation:

> "As we face changes and challenges, we need to hold on to the things that don't change, the foundations on which we can build our lives despite the uncertainty and danger of the future. God's law is the greatest of these foundations"; and

WHEREAS, in his February 22, 1990 proclamation designating 1990 as The International Year of Bible Reading, President George Bush declared:

> "The Bible has had a critical impact upon the development of Western civilization. Western literature, art, and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man -- one affirming the dignity and worth of the human person, made in the image of our Creator -- that inspired the principles upon which the United States is founded. President Jackson called the Bible 'the rock on which our Republic rests' because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope, and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historic speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared, 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education, with assistance as necessary by the Legislative Research Commission, shall electronically transmit KRS 158.195 and this resolution to all public school teachers in the Commonwealth.

Section 2. Documents depicting the Ten Commandments may be posted in classrooms by any public school teacher and on other public property, when incorporated into an historical display along with other historic documents as described in KRS 158.195. The purpose of the display shall not be to advance religion, but to advance the important secular purpose of illustrating how the Bible and the Ten Commandments have influenced the faith, morals, and character of American leaders who, in turn, have shaped American law, public policy, and institutions. For that reason, the General Assembly expresses no preference as to which version of the Ten Commandments is displayed or whether the display is in English, Hebrew, or a foreign language being taught in the classroom. To advance the secular purpose of making citizens of the Commonwealth more knowledgeable concerning the founding of America, the intent of the nation's Founders, and the formative influence of the Bible and the Ten Commandments on American leaders, institutions, and law, a copy of this resolution shall be made a prominent part of any historic display on public property which includes any depiction of the Ten Commandments.

Section 3. No fiscal court, city council, or school board shall mandate the posting of any historical displays set forth in KRS 158.195 which incorporate a depiction of the Ten Commandments until that governing body first sets forth by resolution or policy its secular purpose for erecting the historical display. This historical display shall not advance religion.

Section 4. Each historical display which incorporates a depiction of the Ten Commandments shall be accompanied by clearly legible copies of this resolution and of KRS 158.195; and the cost of posting and maintaining the displays may be paid for by voluntary private contributions.

Section 5. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Department for Local Government for distribution by the department, in the manner it deems most efficient, to all elected officials of each city and county of the Commonwealth.

Section 6. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Secretary of State for distribution by the Secretary of State, in the manner he deems most efficient, to the statewide elected officials of the Commonwealth.

Section 7. The General Assembly finds the Ten Commandments to be the precedent legal code of the Commonwealth which has provided the foundation for many of the civil and criminal statutes enacted into law throughout the history of the Commonwealth.

Section 8. The Department for Facilities Management shall relocate the monument inscribed with the Ten Commandments which was displayed on the Capitol grounds for nearly three decades to a permanent site on the Capitol grounds near Kentucky's floral clock to be made a part of a historical and cultural display which shall include the display of this resolution in order to remind Kentuckians of the Biblical foundations of the laws of the Commonwealth."

Floor Amendment No. 23 Title to **SJR 57**, by Representative Riner:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION relating to the display of historic documents that include a depiction of the Ten Commandments."

Floor Amendment No. 2 to the House Committee Substitute to **SB 227**, by Representative Crall:

On page 3, line 2, by deleting "***the name***" and by inserting in lieu thereof: "***a unique code***"; and

On page 6, line 26, by deleting "***the person's name***" and by inserting in lieu thereof: "***a unique code***"; and

On page 7, line 9, by deleting lines 9 and 10 in their entirety and by substituting in lieu thereof:

"***(a) Use a unique code that consists of any combination of initials, the last four (4) numbers of the Social Security number, birth date, or other information to be determined by the cabinet;***"; and

On page 7, line 13, by deleting "***names***", and by inserting "***unique code***" in lieu thereof; and

On page 8, line 18, by deleting "***names***" and by inserting "***unique codes***" in lieu thereof, and by inserting "***any***" before "***other***", and by inserting "***that may have been***" after "***information***"; and

On page 8, line 21, by deleting "***name***" and by inserting "***unique code***" in lieu thereof; and

On page 8, between lines 26 and 27, by inserting the following:

"***(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the unique code in accordance with the procedure for establishing the unique code established by the cabinet in an administrative regulation. The physician and medical laboratory shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.***"; and

On page 16, line 7, by deleting "***name***" and by inserting "***unique code***" in lieu thereof; and

On page 23, line 13, by deleting "***name***" and by inserting "***unique code***" in lieu thereof.

Floor Amendment No. 1 to **HB 995**, by Representative Simpson:

On Page 2, line 4, before the period, by inserting, "***, except those cities of the second class with a city manager form of government which by ordinance have opted to continue to receive their insurance premium license fees or taxes directly from the insurance companies***"; and

On Page 21, after line 13, by inserting,

"SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city of the second class with a city manager form of government may by ordinance opt to continue to receive their insurance premium license fees or taxes directly from the insurance companies if the ordinance is adopted prior to the effective date of this Act.".

Floor Amendment No. 2 to **HB 995**, by Representative Simpson:

On Page 2, line 4, before the period, by inserting, "***, except those cities located in a county containing a city of the second class with a city manager form of government which by ordinance have opted to continue to receive their insurance premium license fees or taxes directly from the insurance companies***"; and

On Page 21, after line 13, by inserting,

"SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city located in a county containing a city of the second class with a city manager form of government may by ordinance opt to continue to receive their insurance premium license fees or taxes directly from the insurance companies if the ordinance is adopted prior to the effective date of this Act.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 227**, by Representative Marzian:

On page 3, line 2, by deleting "***the name***" and by inserting in lieu thereof: "***a unique code***"; and

On page 6, line 26, by deleting "***the person's name***" and by inserting in lieu thereof: "***a unique code***"; and

On page 7, line 9, by deleting lines 9 and 10 in their entirety and by substituting in lieu thereof:

"***(a) Use a unique code that consists of any combination of initials, the last four (4) numbers of the Social Security number, birth date, or other information to be determined by the cabinet;***"; and

On page 7, line 13, by deleting "***names***", and by inserting "***unique code***" in lieu thereof; and

On page 8, line 18, by deleting "***names***" and by inserting "***unique codes***" in lieu thereof, and by inserting "***any***" before "***other***", and by inserting "***that may have been***" after "***information***"; and

On page 8, line 21, by deleting "***name***" and by inserting "***unique code***" in lieu thereof; and

On page 8, between lines 26 and 27, by inserting the following:

"***(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the unique code in accordance with the procedure for establishing the unique code established by the cabinet in an administrative regulation. The physician and medical laboratory shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.***"; and

On page 16, line 7, by deleting "***name***" and by inserting "***unique code***" in lieu thereof; and

On page 23, line 13, by deleting "***name***" and by inserting "***unique code***" in lieu thereof.

Floor Amendment No. 5 to the Committee Substitute to **HB 920**, by Representative Wilkey:

On page 1, line 8, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 1, line 22, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "***Act***";

On page 2, between lines 2 and 3, by inserting the following:

"***(6) Court costs collected under this section shall not be subject to any fees required by KRS 30A.200(4).***"

On page 2, line 26, by inserting "***is a poor person as defined by KRS 453.190(2) who***" after "***defendant***";

On page 3, line 6, by inserting "***, and shall include in his reports to the Finance and Administration Cabinet and the Administrative Office of the Courts the amounts to be distributed from the court costs to each fund under Section 32 of this Act***" after "***Act***";

On page 3, between lines 20 and 21, by inserting the following:

"***(5) Court costs collected under this section shall not be subject to any fees required by KRS 30A.200(4).***"

On page 7, line 2, by deleting "***damages***" and inserting "***costs***" in lieu thereof;

On page 12, lines 17 through 22, by removing the brackets and strikethroughs; and

On page 12, at the beginning of line 17, by inserting "***(6)***", and by placing brackets and strikethroughs around "(8)";

On page 39, line 18, by inserting brackets around and striking through "subsection", and by deleting "***(2)(a) of***";

On pages 50 to 51, by deleting line 3 on page 50 through line 12 on page 51, and inserting the following in lieu thereof:

"SECTION 32. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks shall be paid, under subsection (5) of Section 1 and subsection (4) of Section 2 of this Act.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund. Money collected from each court cost by a circuit clerk under subsection (1) of Section 1 and subsection (1) of Section 2 of this Act shall be disbursed as follows:

(a) The first fifty-three dollars and fifty cents ($53.50) from each court cost shall be paid into the general fund;

(b) The next three dollars ($3) from each court cost shall be paid to the crime victims' compensation fund created in Section 11 of this Act;

(c) The next ten dollars ($10) from each court cost shall be paid to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(d) The next six dollars ($6) from each court cost shall be paid to the spinal cord and head injury research fund created in KRS 211.504;

(e) The next seven dollars ($7) from each court cost shall be paid to the traumatic brain injury trust fund as created in Section 31 of this Act;

(f) The next five dollars ($5) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, to be used for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners;

(g) The next ten dollars ($10) from each court cost shall be paid to the sheriff in the county in which each court cost was paid;

(h) The next two dollars ($2) from each court cost shall be paid to the county treasurer for use by the fiscal court of the county in which each cost was paid, for the purpose of paying expenses for the local jails, courthouses, bonds related to them and administration thereof;

(i) The next three dollars ($3) from each court cost shall be paid to the trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for enhancement of deputy clerk salaries as provided for in KRS 30A.200; and

(j) The remaining fifty cents ($0.50) from each court cost shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act.

(3) Partial payments of each court cost shall be disbursed to each fund in the order set forth in subsection (2) of this section.";

On page 51, line 21, by deleting "***subsection (2)(a) of***"; and

On page 56, between lines 6 and 7, by inserting the following, and renumbering subsequent sections accordingly:

"Section 37. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms ending on June 30, 1999, shall serve until January 31, 2000; two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until January 31, 2001; two (2) members appointed to fill the terms expiring on June 30, 2001, shall serve until January 31, 2002; and one (1) member appointed to fill the term expiring June 30, 2002, shall serve until January 31, 2003; and subsequent appointments shall be for four (4) year terms ending on January 31.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. ~~[A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.]~~

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things,

policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Health Services for administrative purposes.".

Floor Amendment No. 1 to the Committee Substitute to **HB 202**, by Representative Westrom:

On page 2, line 2, by deleting the entirety of all new text on lines 2 through 6, and by substituting the following in lieu thereof:

"***food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician:***

1. Phenylketonuria;

2. Hyperphenylalaninemia;

3. Tyrosinemia (types I, II, and III);

4. Maple syrup urine disease;

5. A-ketoacid dehydrogenase deficiency;

6. Isovaleryl-CoA dehydrogenase deficiency;

7. 3-methylcrotonyl-CoA carboxylase deficiency;

8. 3-methylglutaconyl-CoA hydratase deficiency;

9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);

10. B-ketothiolase deficiency;

11. Homocystinuria;

12. Glutaric aciduria (types I and II);

13. Lysinuric protein intolerance;

14. Non-ketotic hyperglycinemia;

15. Propionic acidemia,

16. Gyrate atrophy;

17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;

18. Carbamoyl phosphate synthetase deficiency;

19. Ornithine carbamoyl transferase deficiency;

20. Citrullinemia;

21. Arginosuccinic aciduria;

22. Methylmalonic acidemia; and

23. Argininemia"; and

On page 7, lines 11 and 12, after "***diseases***" by deleting "***, including, but not limited to, phenylketonuria (PKU)***" and by inserting in lieu thereof: "***listed in subsection (1)(c) of Section 1 of this Act***"; and

On page 7, line 15, after "***diseases***" by inserting "***listed in subsection (1)(c) of Section 1 of this Act***"; and

On page 9, line 12, after "***disease***" by inserting "***listed in subsection (1)(c) of Section 1 of this Act***"; and

On page 9, line 16, after "***disease***" by inserting "***listed in subsection (1)(c) of Section 1 of this Act***".

Floor Amendment No. 24 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 11, line 6, delete "27,375,600" and insert "61,622,000" for fiscal year 2000-01 and delete "28,996,400" and insert "65,705,000" for fiscal year 2001-02;

On page 11, after line 6 and before line 7, by inserting the following: "The Secretary of the Finance and Administration Cabinet shall reduce the Part I, Operating Budget, General Fund appropriation for each budget unit to provide funding for this purpose. The Secretary of the Finance and Administration Cabinet shall communicate this action by budget unit to the Interim Joint Committee on Appropriations and Revenue.";

On page 11, delete lines 9 through 11;

On page 11, line 16, delete "(40%)" and insert "(41%)";

On page 12, line 8, delete "effective July 1, 2001,";

On page 12, line 11, delete "fourteen percent (14%), and insert the following "forty-one percent (41%) effective July 1, 2000, and forty-four percent (44%) effective July 1, 2001,";

On page 14, line 12, delete "62,680,900" and insert "63,622,000"; and

by adjusting the subtotals and totals accordingly.

Floor Amendment No. 25 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 11, line 6, delete "27,375,600" and insert "28,316,700" in fiscal year 2000-01;

On page 11, after line 6 and before line 7, by inserting the following: "The Secretary of the Finance and Administration Cabinet shall reduce the Part I, Operating Budget, General Fund appropriation for each budget unit to provide funding for this purpose. The Secretary of the Finance and Administration Cabinet shall communicate this action by budget unit to the Interim Joint Committee on Appropriations and Revenue.";

On page 11, after line 8, insert the following

"Notwithstanding KRS 42.470, seventy percent (70%) of moneys in the Local Government Economic Assistance Fund shall be distributed to each coal producing county on the basis of the ratio of tax collected on coal severed in each respective county to the tax collected statewide."

On page 11, line 16, delete "(40%)" and insert "(41%)";

On page 12, line 8, delete "1, 2001" and insert "15, 1998";

On page 14, line 12, delete "62,680,900" and insert "63,622,000";

and by adjusting the subtotals and totals accordingly.

Floor Amendment No. 1 to the House Committee Substitute to **SB 58**, by Representative Bratcher:

On page 1, line 2, after "***public***" by inserting "***, proprietary,***";

On page 1, line 9, after "***a***" by inserting "***proprietary or***"; and

On page 1, line 13, after the second "***a***" by inserting "***proprietary or***".

Floor Amendment No. 4 to Floor Amendment No. 3 to **HB 617**, by Representative Collins:

On page 45, after line 8 by adding:

"SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health benefit plans issued or renewed after the effective date of this Act shall provide coverage for the treatment of a congenital condition if the condition presently results in a functional defect or will progress to a level of partial or inhibited function which deviates from the expected function if the congenital condition were not present.

(2) As used in this subtitle "congenital condition" means a physiological or structural abnormality that develops before birth and that exists at birth. A "congenital condition" is not hereditary.";

Renumber subsequent sections accordingly; and

On page 61, line 9, by deleting "***24 to 31***" and inserting "***25 to 32***" in lieu thereof.

Floor Amendment No. 26 to the Committee Substitute to **HB 502**, by Representative Ratliff:

On page 11, line 6, delete "27,375,600" and insert "122,375,600" for fiscal year 2000-2001 and delete "28,996,400" and insert "109,996,400" for fiscal year 2001-2002;

On page 11, delete lines 9, 10, and 11;

On page 11, after line 16, delete "forty-one percent (40%)" and insert "one hundred percent (100%)";

On page 11, line 17, delete ", and forty-four percent (44%) and insert "one hundred percent (100%)"; and

On page 12, line 11, delete "fourteen percent (14%)" and insert "one hundred percent (100%)";

On page 12, after line 13, insert: "Notwithstanding KRS 42.4585, seventy percent (70%) shall be distributed to each coal producing county on the basis of the ratio of tax collected on coal severed in each respective county to the tax collected statewide.";

On page 11, after line 6 and before line 12, insert the following

"The Secretary of the Finance and Administration Cabinet shall reduce the Part I, Operating Budget, General Fund appropriation for each budget unit to provide funding for this purpose. The Secretary of the Finance and Administration Cabinet shall communicate this action by budget unit to the Interim Joint Committee on Appropriations and Revenue."

Floor Amendment No. 4 to the Committee Substitute to **HB 739**, by Representative Rasche:

On page 33, line 1 after the second comma by inserting "*the Teachers' Retirement System shall maintain a life insurance policy in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance policy shall be payable*";

On page 33, lines 2 and 3 by deleting "*five thousand dollars ($5,000)*" and removing the brackets and strikethroughs from "three thousand dollars ($3,000)";

On page 33, line 2 by placing an opening bracket in front of "a" and on line 3 by placing a closing bracket after "paid" and striking through the language in between;

On page 33, line 4 after the period by inserting the following:

"*The Teachers' Retirement System shall maintain a life insurance policy in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance policy shall be payable upon the death of an active contributing member*";

On page 33, line 4 by placing an opening bracket in front of "Upon" and on line 5 by placing a closing bracket after "paid" and striking through all language in between;

On page 33, line 7 after "for" by inserting "*payment of life insurance proceeds*";

On page 33, line 7 by placing brackets around and striking through "the death benefit";

On page 33, line 9 after " to the" by inserting "*coverage and payment of proceeds by the life insurance policy*"; and

On page 33, line 10 by placing brackets around and striking through "payment of death benefits";

On page 33, line 11 after " of the" by inserting "*proceeds of the life insurance policy*";

On page 33, line 11 by placing brackets around and striking through "death benefit";

On page 33, line 14 after "the" by inserting "*proceeds of the life insurance policy*"; and

On page 33, line 14 by placing brackets around and striking through "death benefit".

Floor Amendment No. 8 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 46, by deleting lines 20 to 26 in their entirety;

By deleting pages 47 to 51 in their entirety;

On page 52 by deleting lines 1 to 6 in their entirety;

Renumber subsequent sections accordingly; and

On page 61, line 9, by deleting "31" and inserting "30" in lieu thereof.

Floor Amendment No. 9 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 16, line 18, after "*Access.*" by adding "*Notwithstanding any other provision of this subtitle, for purposes of this section "insurer" means an insurance company or health maintenance organization authorized to transact health insurance business in Kentucky.*"

Floor Amendment No. 7 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 20, after line 25, by inserting the following:

"*(16) When funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation, or the cost of Kentucky Access exceeds the available funds designated to the Kentucky Access Fund,* *the maximum limits on assessments established in this section shall not apply to insurance companies and health maintenance organizations authorized to transact health insurance business in Kentucky. The department shall calculate the revenues needed to meet the funding necessary for the continued operation of Kentucky Access and increase the assessments accordingly.*"

Floor Amendment No. 5 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 5, line 18, after "*research*" by inserting "*as provided in Section 24 of this Act*"; and

On page 45, after line 8, by adding:

"SECTION 24. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The "Lung Cancer Research Fund" is created and shall receive funds each year from the tobacco settlement agreement fund created in KRS 248.654 and allocated to it by the Kentucky Health Care Improvement Authority as authorized by subsection (5)(b) of Section 2 of this Act. The lung cancer research fund shall be used to finance the Lung Cancer Research Project described in subsection (5) of this section. No revenues from the lung cancer research fund shall be allocated until the board has adopted the strategic plan described in subsections (5) and (6) of this section.

(2) A research consortium between the University of Kentucky and the University of Louisville is created and shall be known as the Governance Board of the Lung Cancer Research Project. The consortium shall be attached to the Council on Postsecondary Education for administrative purposes.

(3) The board shall consist of nine (9) members appointed by the Governor as follows:

(a) Two (2) members shall be from the faculty of the School of Medicine at the University of Kentucky;

(b) Two (2) members shall be from the faculty of the School of Medicine at the University of Louisville;

(c) Two (2) members shall be from the Council on Postsecondary Education; and

(d) Three (3) members shall be from the state at large, one (1) of whom shall be appointed chair by the Governor.

(4) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Two (2) members shall be appointed for one (1) year;

(b) Two (2) members shall be appointed for two (2) years;

(c) Two (2) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(5) The Governance Board of the Lung Cancer Research Project shall develop and oversee the implementation of a twenty (20) year strategic plan that utilizes the resources of both the University of Louisville and the University of Kentucky in establishing the Lung Cancer Research Project. The Lung Cancer Research Project shall be a joint program to:

(a) Develop an expertise in the area of lung cancer research with an immediate focus on early detection and epidemiology and with an ultimate goal of eradication of lung cancer;

(b) Establish a statewide clinical trial network to make university-based clinical trials available to the community physician in order to bring the most innovative cancer treatments to all Kentuckians in need of these treatments;

(c) Leverage the resources earmarked for the Lung Cancer Research Project toward the certification of the cancer program at the University of Kentucky and the University of Louisville by the National Cancer Institute as a cancer center; and

(d) Undertake other initiatives consistent with the strategic plan.

(6) The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals; it shall be updated every two (2) years.

(7) The Governance Board of the Lung Cancer Research Project shall submit an annual report to the Governor and the Legislative Research Commission by September 1 each year for the preceding fiscal year, outlining its activities and expenditures.

(8) The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the lung cancer research fund and, if necessary in the opinion of the Auditor, the operations of the Lung Cancer Research Project and the lung cancer research fund."; and renumbering subsequent sections accordingly; and

On page 61, line 9, by deleting "24 to 31" and inserting "25 to 32".

Floor Amendment No. 6 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 5, line 20, after "*minors*" by inserting the following "*in accordance with the prevention program established in Section 24 of this Act*";

On page 45, after line 8, by inserting the following:

SECTION 24. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to protect all youth and adolescents from the use of tobacco, alcohol, and drugs by:

(a) Educating all youth and adolescents about the physiological and social consequences of tobacco, alcohol, and drug use and encouraging healthy lifestyles through a comprehensive statewide program; and

(b) Expanding leadership and dedicating resources to establish new programs and to enhance existing programs that lead to the prevention, reduction, and cessation of tobacco, alcohol, and drug use.

(2) The General Assembly hereby authorizes the Cabinet for Health Services to develop and establish a comprehensive and coordinated program for educating students in the public schools on prevention, reduction, and cessation of tobacco, alcohol, and drug use. The comprehensive and coordinated plan shall employ a variety of effective approaches including:

(a) Public education through printed materials, brochures, and video programs;

(b) Health education curricula that are research-based and proven effective;

(c) Training for teachers, school employees, and parents;

(d) Counseling and cessation programs and services; and

(e) Partnerships with community-based organizations including Public Health Departments that conduct prevention activities.

SECTION 25. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The State Advisory Council on the prevention of Tobacco, Alcohol, and Drug Use By Youth is hereby created and attached to the Health Services Cabinet. The council shall advise the secretary of the Health Services Cabinet on the development and implementation of the state comprehensive and coordinated program on the prevention of tobacco, alcohol, and drug use; make recommendations on the criteria for distributing grants to community-based organizations, including public health departments; and monitor and evaluate the effectiveness of programs and activities conducted by the Health Services Cabinet.

(2) The council shall be composed of seven (7) members appointed by the Governor, with at least one (1) representative from each Congressional District. The chief executive officers or their designees from the Cabinet for Families and Children, the Cabinet for Health Services, and the Center for School Safety shall serve as ex officio members.

(3) Each council member shall serve a four (4) year term or until a successor is appointed, except that for initial appointments to the council, two (2) of the members shall be appointed to serve a two (2) year term, two (2)of the members shall be appointed to serve a three (3) year term, and three (3) of the members shall be appointed to serve a four (4) year term. A member may be reappointed but may not serve more than two (2) consecutive terms.

(4) The council shall elect a chair from its membership annually, establish operational procedures, and meet at least four (4) times a year.

(5) The council members who are not state agency representatives shall be remunerated for actual and necessary expenses incurred while attending meetings. These expenses shall be reimbursed from general funds allocated to the Health Services Cabinet and not from funds allocated to the prevention, reduction, and cessation program.

SECTION 26. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Funds allocated from the Kentucky Health Care Improvement Authority as authorized by subsection (5)(c) of Section 2 of this Act to the prevention, reduction, and cessation program established under Section 24 of this Act shall be credited to a restricted account and shall not lapse but shall be carried forward in the next biennial budget. Appropriations shall supplement, not supplant, existing funds and resources.

(2) Of the funds allocated from the Kentucky Health Care Improvement Authority for the implementation of the comprehensive and coordinated plan:

(a) Ninety-five percent (95%) of funds shall be available to fund school or community-based grants to support prevention, reduction, and cessation programs;

(b) In the event that funds remain after all qualified school or community-based programs have received the funds requested, the cabinet shall use the remaining funds to promote prevention, reduction, and cessation programs; and

(c) Five percent (5%) of funds shall be used for the administration of the program and for the evaluation of the effectiveness of the prevention programs receiving grants.

(3) The Cabinet for Health Services shall provide to all public school districts and local health departments information regarding the availability of prevention funds, the requirements for receiving funds, and the grant application process.

(4) A local public health department may submit a grant application developed in partnership with public schools or school districts, other public and private community agencies, and organizations."; and by renumbering subsequent sections accordingly; and

On page 61, line 9, by deleting "24 to 31" and inserting "27 to 34".

Floor Amendment No. 4 to **HB 750**, by Representative Upchurch:

Beginning on page 1, and continuing through page 113, by deleting everything after the enacting clause, and inserting in lieu thereof:

"Section 1. KRS 6.611 is amended to read as follows:

As used in this code, unless the context requires otherwise:

(1) "Adversarial proceeding" means a proceeding in which decisions are made based upon evidence presented as measured against established standards, with parties having the right to appeal the decision on the record to a court.

(2) (a) "Anything of value" includes the following:

1. A pecuniary item, including money, or a bank bill or note;
2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
4. A stock, bond, note, or other investment interest in an entity;
5. A receipt given for the payment of money or other property;
6. A right in action;
7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
8. A loan or forgiveness of indebtedness;
9. A work of art, antique, or collectible;
10. An automobile or other means of personal transportation;
11. Real property or an interest in real property, including title to realty; a fee simple or partial interest, present or future, contingent or vested, within realty; a leasehold interest; or other beneficial interest in realty;
12. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as a legislator;
13. A promise or offer of employment; or
14. Any other thing of value that is pecuniary or compensatory in value to a person, or the primary significance of which is economic gain.

(b) "Anything of value" does not include:

1. A campaign contribution properly received and reported, if reportable, as required under KRS Chapter 121 ~~[or 121A]~~;
2. Compensation, food, beverages, entertainment, transportation, lodging, or other goods or services extended to a legislator by the legislator's private employer or by a person other than a legislative agent or employer;
3. A usual and customary commercial loan made in the ordinary course of business, without regard to the recipient's status as a legislator, and by a person or institution authorized by law to engage in the business of making loans;
4. A certificate, plaque, or commemorative token of less than one hundred fifty dollars ($150) value;
5. Informational or promotional items;
6. Educational items;
7. Food and beverages consumed on the premises;
8. The cost of attendance or participation, and of food and beverages consumed, at events:
    a. To which all members of the Kentucky Senate or the Kentucky House of Representatives, or both, are invited;
    b. To which all members of a joint committee or task force of the Kentucky Senate and the Kentucky House of Representatives are invited;

    - c. To which a caucus of legislators approved as a caucus by the Legislative Research Commission is invited;
    - d. Sponsored or coordinated by a state or local government entity, including a state institution of higher education, provided that the cost thereof is covered by the state or local government entity or state institution of higher education; or
    - e. To which an individual legislator is invited and for which the legislator receives prior approval from a majority of the Legislative Research Commission. Costs of admittance or attendance, or the value of food or beverages consumed at these events shall not be considered anything of value. Transportation, lodging, and other ancillary expenses related to attendance or participation in these events shall be included in the definition of anything of value;
  - 9. Gifts from a person related by blood or marriage or a member of the legislator's household;
  - 10. A gift that:
    - a. Is not used; and
    - b. No later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
  - 11. The cost, paid, reimbursed, raised, or obtained by the Legislative Research Commission, for attendance or participation, and for food and beverages consumed at, and funds, goods, and services provided for conducting events sponsored or coordinated by multistate or national organizations of, or including, state governments, state legislatures, or state legislators if the attendance and expenditures by the legislator are approved in advance by the Legislative Research Commission;
  - 12. The cost of attendance or participation provided by the sponsoring entity, of lodging, and of food and beverages consumed, at events sponsored by or in conjunction with a civic, charitable, governmental, trade association, or community organization if the event is held within the Commonwealth of Kentucky;
  - 13. A gift or gifts from one member of the General Assembly to another member of the General Assembly;
  - 14. Anything for which the recipient pays or gives full value; or
  - 15. Any service spontaneously extended to a legislator in an emergency situation.

(3) "Associated," if used with reference to an organization, includes an organization in which an individual or a member of the individual's family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, an interest of ten thousand dollars ($10,000) or more, or an interest of five percent (5%) or more of the outstanding equity;

(4) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;

(5) "Business associate" includes the following:

  - (a) A private employer;
  - (b) A general or limited partnership, or a general or limited partner within the partnership;
  - (c) A corporation that is family-owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
  - (d) A corporation in which the legislator or other person subject to this code has an investment interest, owns, or has a beneficial interest in shares of stock which constitute more than:
    - 1. Five percent (5%) of the value of the corporation; or
    - 2. Ten thousand dollars ($10,000) at fair market value;
  - (e) A corporation, business association, or other business entity in which the legislator or other person subject to this code serves as an agent or a compensated representative;

(6) "Candidate" means an individual who seeks nomination or election to the General Assembly. An individual is a candidate when the individual:

  - (a) Files a notification and declaration for nomination for office with the Secretary of State; or
  - (b) Is nominated for office by his party under KRS 118.105, 118.115, 118.325, or 118.760;

(7) "Charitable organization" means an organization described in 26 U.S.C. Sec. 170(c) as it currently exists or as it may be amended;

(8) "Child" means the unemancipated minor daughter, son, stepdaughter, or stepson;

(9) "Commission" means the Kentucky Legislative Ethics Commission;

(10) (a) "Compensation" means:

    - 1. An advance, salary, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money; or

2. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money for services rendered or to be rendered;

(b) "Compensation" does not include reimbursement of expenses if:

1. The reimbursement is equal to, or less than, the amount paid for the expenses;

2. Expense records are itemized; and

3. No portion of the reimbursed expense is used to give anything of value to a legislator, candidate, or the spouse of a legislator or candidate;

(11) "Economic interest" means an interest distinct from that of the general public in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a legislator may gain an economic benefit of fifty dollars ($50) or more;

(12) "Employer" means any person who engages a legislative agent and in the case of a business other than a sole proprietorship or self-employed individual, it means the business entity, and not an individual officer, director, or employee thereof, except when an officer, director, or employee makes an expenditure for which he is reimbursed by the business entity;

(13) "Engage" means to make any arrangement, and "engagement" means any arrangement, by which an individual is employed or retained for compensation to act for or on behalf of an employer to lobby;

(14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative Ethics;

(15) (a) "Expenditure" means any of the following that is made to, at the request of, for the benefit of, or on behalf of any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of those officials:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;

2. A contract, promise, or agreement, to make an expenditure; or

3. The purchase, sale, or gift of services or any other thing of value.

(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection;

(16) "Family member" means a person:

(a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of an individual; or

(b) Who is a member of the individual's household, and is dependent upon the member;

(17) "Filer" means an individual who is required to file a statement of financial interests pursuant to KRS 6.781;

(18) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

1. A legislative agent, his employer, or a member of the immediate family of the legislative agent or his employer; and

2. Any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this subparagraph;

(b) "Financial transaction" does not include any transaction or activity:

1. Described in paragraph (a) of this subsection if it is available to the general public on the same or similar terms and conditions; or

2. Made or let after public notice and competitive bidding or contracts that are available on similar terms to other members of the general public;

(19) "Former legislator" means a person who previously held a position as a legislator and who no longer holds that position;

(20) "Immediate family" means an unemancipated child residing in an individual's household, a spouse of an individual, or a person claimed by the individual's spouse as a dependent for tax purposes;

(21) "Legislation" means bills, resolutions, amendments, nominations, and any other matter pending before the General Assembly or any of its interim committees, or the executive approval or veto of any bill acted upon by the General

Assembly;

(22) (a) "Legislative agent" means any individual who is engaged:

1. During at least a portion of his time to lobby as one (1) of his official responsibilities; or

2. In lobbying activities as a legislative liaison of an association, coalition, or public interest entity formed for the purpose of promoting or otherwise influencing legislation.

(b) "Legislative agent" does not include:

1. Any person who limits his lobbying activities to appearing before public meetings of legislative committees, subcommittees, or task forces, or public hearings or meetings of public agencies;

2. A private citizen who receives no compensation for lobbying and who expresses a personal opinion; or

3. A public servant acting in his fiduciary capacity as a representative of his agency, college, university, or city, county, urban-county, or charter county government, except persons engaged by a de jure municipal corporation, such as the Kentucky Lottery Corporation or the Kentucky Housing Corporation, institutions of higher education, or local governments, whose primary responsibility during sessions of the General Assembly is to lobby;

(23) "Legislative interest" means a substantial economic interest, distinct from that of the general public, in one (1) or more legislative matters;

(24) "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the General Assembly or any interim committee, committee, subcommittee, task force, or commission of the General Assembly;

(25) "Legislator" means a member or member-elect of the General Assembly;

(26) (a) "Lobby" means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with any member of the General Assembly, the Governor, the secretary of any cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this paragraph.

(b) "Lobbying" does not include:

1. Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly;

2. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;

3. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in paragraph (b)2. of this subsection;

4. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;

5. Professional services in drafting bills or resolutions, preparing arguments on these bills or resolutions, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, if the services are not otherwise connected with lobbying; or

6. The action of any person not engaged by an employer who has a direct interest in legislation, if the person, acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any official listed in this subsection for the redress of grievances, or other proper purposes;

(27) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert;

(28) "Public servant" means an elected or appointed officer or employee of a federal or state agency; state institution of higher education; or a city, county, urban-county, or charter county government;

(29) "State agency" means any department, office, commission, board, or authority within the executive department, and includes state-supported universities and colleges but does not include local boards of education; and

(30) "Through others" means a scheme, artifice, or mechanism, the sole purpose of which is to accomplish by indirect means, using third parties, results which would be unlawful under this code if accomplished directly between a legislator or candidate and another person or entity.

Section 2. KRS 6.784 is amended to read as follows:

KRS 6.781 to 6.794 do not require the disclosure of financial information concerning the following:

(1) A spouse separated from a filer;

(2) A former spouse of a filer;

(3) A gift or loan to or from a family member;

(4) A campaign contribution permitted and reported pursuant to KRS Chapter 121~~[or 121A]~~; or

(5) A gift or loan from a wholly-owned family business.

Section 3. KRS 11A.045 is amended to read as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept tangible gifts or gratuities totaling a value greater than twenty-five dollars ($25) in a single calendar year, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value, from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. The following items are exempt:

(a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;

(b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;

(c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;

(d) A campaign contribution to an employee's own campaign if in compliance with KRS ***Chapter***~~[Chapters]~~ 121 ~~[and 121A]~~ and all other campaign finance laws;

(e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;

(f) Food, clothing, and shelter in times of natural disaster or other emergency;

(g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;

(h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;

(i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;

(j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;

(k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and

(l) A single copy of a textbook received by an educator for review.

(2) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

(a) Was not solicited by the public servant;

(b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Section 4. KRS 11A.231 is amended to read as follows:

(1) KRS 11A.211 and 11A.216 do not apply to efforts to influence executive agency decisions or conduct executive agency lobbying activity by any of the following:

(a) Appearances at public hearings of the committees or interim committees of the General Assembly, at court proceedings, at rule-making or adjudication proceedings, or at other public meetings;

(b) News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;

(c) The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in subsection (1)(b) of this section; or

(d) Publications primarily designed for and distributed to members of associations or charitable or fraternal nonprofit corporations.

(2) Nothing in KRS 11A.201 to 11A.246 requires the reporting of, or prohibits an elected executive official from soliciting or

accepting, a contribution from or an expenditure by any person if the contribution or expenditure is reported in accordance with KRS Chapter 121[~~ or 121A~~].

Section 5. KRS 118.255 is amended to read as follows:

(1) The Secretary of State shall receive a fee of five hundred dollars ($500) for a candidate for statewide elected state office or the Congress, two hundred dollars ($200) for a candidate for Commonwealth's attorney, the General Assembly, or the District Court, Circuit Court, Court of Appeals, or Supreme Court, twenty dollars ($20) for candidates for office in cities of the fifth or sixth class, fifty dollars ($50) for other candidates who file with the Secretary of State for each notification and declaration and petition filed with him, fifty dollars ($50) for a write-in candidate for office other than municipal office in cities of the fifth or sixth class, and twenty dollars ($20) for a write-in candidate for municipal office in a city of the fifth or sixth class for each declaration of intent to be a write-in candidate, to be paid by the candidate, or the candidate's representative, when the notification and declaration and petition or declaration of intent is filed.

(2) The county clerk shall receive a fee pursuant to KRS 64.012 for each notification and declaration and petition filed with him to be paid by the candidate at the time of the filing. The county clerk shall receive a fee pursuant to KRS 64.012 for each name published as provided in KRS 118.235, to be paid by the county.

(3) [~~The amount of fees received by the Secretary of State and county clerk for notifications and declarations and petitions filed with them, minus twenty dollars ($20) for each notification and declaration or petition filed, shall be forwarded to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.~~

~~(4)~~]The county clerk and/or Secretary of State shall pay the cost of mailing the certification of nomination and declaration petition from the fee collected from the candidate.

Section 6. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party;

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in [~~KRS 121A.050 or~~] KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

(c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents; and

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 7. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than the maximum legal contribution established by ***Section 9 of this Act***[~~KRS 121A.050~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than the maximum legal contribution established by ***Section 9 of this Act***[~~KRS 121A.050~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky during the term of office following the campaign in which the contributions shall be made unless the contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of the entity or the person and his immediate family together own or control ten percent (10%) or more of the entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of the maximum legal contribution established by ***Section 9 of this Act*** [~~KRS 121A.050~~] in any one (1) election as provided by those subsections, shall apply to a person who makes a total contribution in excess of the maximum legal contribution established by ***Section 9 of this Act***[~~KRS 121A.050~~] in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office as provided by this subsection.

Section 8. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter[~~ and KRS Chapter 121A~~]. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter [~~and KRS Chapter 121A~~];

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, ***and*** parties[~~, and exploratory committees as defined in KRS 121A.010(9)(e)~~] containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate ***or***[~~,~~] slate of candidates[~~, or exploratory committee,~~] the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for

a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office~~[, or to an exploratory committee,]~~ the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter ~~[and KRS Chapter 121A]~~; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion; ***and***

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter ~~[and KRS Chapter 121A]~~ which may become the subject of civil or criminal prosecution~~[; and~~

~~(o) Direct and administer the provisions of KRS Chapter 121A]~~.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Section 9. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state ~~[and be transferred to the election campaign fund established by KRS 121A.020]~~. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall

escheat to the state ~~[and be transferred to the election campaign fund established by KRS 121A.020]~~.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. ~~[Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.]~~

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than ***one thousand dollars ($1,000)***~~[one thousand five hundred dollars ($1,500)]~~ to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than ***one thousand dollars ($1,000)***~~[two thousand five hundred dollars ($2,500)]~~) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) Subject to the provisions of subsection ***(19)***~~[(20)]~~ of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) Subject to the provisions of subsection ***(19)***~~[(20)]~~ of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) Subject to the provisions of subsection ***(19)***~~[(20)]~~) of this section, no candidate or slate of candidates for any state, county,

city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) Subject to the provisions of subsection *(19)*[~~(20)~~] of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) [~~Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.~~

~~(19)~~] The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(19)[~~(20)~~] A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(20)[~~(21)~~] No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(21)[~~(22)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(22)[~~(23)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

[~~(24) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).~~]

(23)[~~(25)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(24)[~~(26)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(25)[~~(27)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 10. KRS 121.170 is amended to read as follows:

(1) Any committee, except a federally-registered out-of-state permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127. No entity which is excluded from the definition of "campaign committee" established in KRS 121.015(3)(a) shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) [~~and KRS 121A.020(5)~~].

(3) All provisions of KRS 121.160 [~~and 121A.070~~] governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser. In case of the death, resignation, or removal of a campaign treasurer for a permanent committee or executive committee, the chairman of the permanent committee or executive committee shall, within three (3) days after receiving notice of the vacancy by certified mail, appoint a successor as treasurer for the committee and file the name and address of the successor with the registry. The chairman of the permanent committee or executive committee shall be accountable as the treasurer for the committee if the chairman fails to meet this filing requirement.

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(7) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 11. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section [~~or KRS 121A.020(5), whichever is applicable~~], if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates

files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section ~~[or KRS 121A.020(5), whichever is applicable]~~, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry ***thirty (30) days*** ~~[at the end of the first calendar quarter]~~after the person becomes a candidate or following registration of the committee or fundraiser, and each ***thirty (30) days***~~[calendar quarter]~~ thereafter, ending with the last ***day*** ~~[calendar quarter]~~ of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place; ***and***

2. ~~[All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;~~

~~3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and~~

~~4.]~~All reports to the registry shall be in the hands of the registry or postmarked within ***three (3)*** ~~[five (5)]~~ days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the

purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public

issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. ~~[Except as provided in KRS 121A.080(6),]~~ Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.

(b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.

(c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(e) Notwithstanding KRS 121.990 ~~[and KRS 121A.990]~~, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 12. KRS 121.220 is amended to read as follows:

(1) Each candidate, slate of candidates, and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, slate of candidates, or committee. The candidate, slate of candidates, or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, or committee participates. Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and occupation of each contributor of more than one hundred dollars ($100) and the amount contributed. Cash contributions shall be accompanied by the same receipt form. ~~[The campaign treasurer or deputy campaign treasurer for a slate of candidates or a slate's campaign committee shall comply with the requirements of KRS 121A.080(6)]~~.

Section 13. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), ***or*** 121.320, ~~[or KRS Chapter 121A,]~~ shall, for each offense, be guilty of a Class D felony. Violations of KRS 121.150 to 121.230 ~~[or KRS Chapter 121A]~~ shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 ~~[or KRS Chapter 121A]~~, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 ~~[or KRS Chapter 121A]~~, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 ~~[and KRS Chapter 121A]~~.

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter ~~[or KRS Chapter 121A]~~. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 14. KRS 154A.160 is amended to read as follows:

(1) The corporation shall not organize, participate in, or contribute to a political action committee, either directly or indirectly.

(2) No person, partnership, unincorporated association, corporation, or other business entity selected to provide auditing services or a major lottery-specific procurement item to the corporation, nor any related entity, or a political action committee thereof or to which the person or organization contributes, shall have made contributions which do not comply with KRS Chapter ***121***[~~121A~~].

(3) No person who receives goods, services, moneys, or rights having monetary value in excess of fifty dollars ($50) pursuant to any contract with the corporation, and no agent, officer, employee, shareholder, or partner of such person, shall pay money, service, or other thing of value, to or for the benefit of, any agent, officer, employee of the corporation or to any person having the authority to appoint or to confirm the appointment of any agent, officer, and employee of the corporation on account of, in consideration for, or to induce the corporation to enter into the contract. This section shall not apply to otherwise lawful contributions to political campaigns.

Section 15. KRS 121.310 is amended to read as follows:

(1) No person shall coerce or direct any employee to vote for any political party or candidate for nomination or election to any office in this state, or threaten to discharge any employee if he votes for any candidate, or discharge any employee on account of his exercise of suffrage, or give out or circulate any statement or report that employees are expected or have been requested or directed by the employer, or by anyone acting for him, to vote for any person, group of persons or measure.

(2) No corporation ***or labor union*** organized or authorized to do business in this state shall ***directly or indirectly by its board, shareholders, employees, agents, representatives, or members or their assets or funds*** influence or attempt to influence, by bribe, favor, promise, inducement or otherwise, the vote or suffrage of any employee of such corporation ***or labor union*** against or in favor of any candidate, platform, principle or issue in any election held under the laws of this state.

Section 16. The following KRS sections are repealed:

121A.005 Short title for chapter.
121A.010 Definitions for chapter.
121A.015 Exploratory committees for possible slates for Governor and Lieutenant Governor.
121A.020 Election campaign fund -- Transfers.
121A.030 Campaign expenditure limitations.
121A.040 Statement of intent.
121A.050 Contribution limits.
121A.060 Certification of qualification to receive transfer from fund.
121A.070 Deposit of transferred funds -- Duty of campaign treasurer.
121A.080 Amounts transferred from fund.
121A.090 Recipients of transfers subject to KRS Chapter 121.
121A.100 Televised candidate forums or debates.

121A.110 Misuse of transferred funds prohibited.

121A.990 Penalties.

Floor Amendment No. 27 to the Committee Substitute to **HB 502**, by Representative Moberly:

On page 233. after line 4 and before line 5, by inserting the following:

"34. Motor vehicles assessed under KRS 132.485 shall be exempted from ad valorem tax for state purposes for assessments on or after January 1, 2001. Funding for this provision shall be supported from funds from the General Fund Surplus Account ".

Floor Amendment No. 1 to the Committee Substitute to **HB 744**, by Representative R. Adams:

On page 1, line 5, after the word "Commonwealth," delete the word "***or***"; and

On page 1, line 5, after the word "***Police***", insert the words "***, or the Kentucky Department of Fish and Wildlife Resources***"; and

On page 1, line 11, after the word "state," delete the word "***or***"; and

On page 1, line 11, after the word "***officer,***", insert the words "***or a Kentucky Department of Fish and Wildlife Resources law enforcement officer,***"; and

On page 2, line 12, after the word "***officers***", insert the words "***or Kentucky Department of Fish and Wildlife Resources officers***"; and

On page 2, line 27, after the word "***officer***", insert the words "***or a Kentucky Department of Fish and Wildlife Resources law enforcement officer***"; and

On page 3, line 10, after the word "***officer***", insert the words "***or a Kentucky Department of Fish and Wildlife Resources law enforcement officer***"; and

On page 3, line 16, after the word "deputies,", delete the word "***or***"; and

On page 3, line 17, after the word "***officers***", insert the words "***or Kentucky Department of Fish and Wildlife Resources law enforcement officers***"; and

On page 3, line 21, after the word "office,", delete the word "***or***" and after the word "***Police***", insert the words "***, or the Kentucky Department of Fish and Wildlife Resources Division of Law Enforcement***"; and

On page 3, line 27, after the word "office,", delete the word "***or***"; and

On page 4, line 1, after the word "***Police***", insert the words "***, or Kentucky Department of Fish and Wildlife Resources Division of Law Enforcement***"; and

On page 4, line 5, after the word "office,", delete the word "***or***" and after the word "***Police***", insert the words "***, or the Kentucky Department of Fish and Wildlife Resources Division of Law Enforcement***"; and

On page 4, line 16, after the word "***officers***", insert the words "***and Kentucky Department of Fish and Wildlife Resources law enforcement officers***"; and

On page 4, line 19, after the number "***16.652***", insert the words "***or Kentucky Employee Retirement System Hazardous Duty under KRS 61.510 to 61.705, whichever system is applicable***"; and

On page 6, line 9, after the word "***Police***", insert the words "***or the Kentucky Department of Fish and Wildlife Resources***"; and

On page 7, line 7, after the word "***officers***", insert the words "***and the Kentucky Department of Fish and Wildlife Resources law enforcement officers***"; and

On page 7, line 16, after the word "***Police***", insert the words "***or the Kentucky Department of Fish and Wildlife Resources***"; and

On page 7, line 17, after the word "***Police***", insert the words "***or the Kentucky Department of Fish and Wildlife Resources***; and

On page 8, line 6, after the word "***officers***", insert the words "***and the Kentucky Department of Fish and Wildlife Resources law enforcement officers***"; and

On page 8, line 9, after the word "***officers***", insert the words "***and the Kentucky Department of Fish and Wildlife Resources law enforcement officers***".

Floor Amendment No. 1 to **SB 254**, by Representative J. Turner:

On page 1, after line 15, add a new Section 2 to read as follows:

"Section 2. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway[~~ as of July 15, 1998~~], a person operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(6) ***(a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.***

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that *are*[~~were~~] prohibited[~~, as of July 15, 1998,~~] may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.".

Floor Amendment No. 2 Title to **SB 254**, by Representative J. Turner:

On page 1, amend the title to read as follows:

"AN ACT relating to vehicles.".

Floor Amendment No. 10 to Floor Amendment No. 3 to **HB 617**, by Representative Stumbo:

On page 2, line 8, by deleting "***September 30, 2000,***" and inserting in lieu thereof "***March 31, 2001, or December 31, 2000, if the commissioner certifies the statewide provider network is operational according to Section 3 of this Act,***"; and

On page 3, after line 14, by inserting:

"*(26) Statewide provider network" means provider network established in accordance with Sections 26 and 27 of this Act;*"

and

On page 3, line 15, by deleting "***(26)***" and inserting "***(27)***" in lieu thereof; and

On page 3, line 16, by deleting "***(27)***" and inserting "***(28)***" in lieu thereof; and

On page 3, line 18, by deleting "***(28)***" and inserting "***(29)***" in lieu thereof; and

On page 6, lines 19 to 20, by deleting "***sooner than January 1, 2001***" and inserting in lieu thereof "***later than April 1, 2001, or prior to that date but not before January 1, 2001, if the commissioner has certified that the statewide provider network is operational. The statewide provider network shall be certified by the commissioner as operational if the department has contracts with eighty percent (80%) of the in-state physicians of the insurer with the largest market share and ninety percent (90%) of the in-state hospitals of the insurer with the largest market share and has adequate coverage for physician and hospital services in at least one hundred (100) counties in Kentucky. After certification is received from the commissioner, health coverage shall be available under Kentucky Access and guarantee issue shall not be required in the individual market.***"; and

On page 8, line 23, by deleting "***effective***" and after "***2001,***" by inserting "***or thereafter,***"; and

On page 9, line 8, by inserting a period after "***network***" the first time the word appears on the line and by deleting the remainder of the line; and

On page 9, by deleting lines 9 and 10 in their entirety; and

On page 9, line 11, by deleting "***the provider network, and the current market rate of the provider network.***"; and

On page 9, line 13, by deleting "***shall be limited to***" and inserting "***for***" in lieu thereof , and after "***enrollees***" by inserting "***and for enrollees of other insurers, self-funded plan, and employer-organized associations under Sections 26 and 27 of this Act***"; and

On page 13, line 26, by deleting "***October 1, 2000***" and inserting in lieu thereof "***March 31, 2001, or December 31, 2000, if the commissioner certifies the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 18, line 12, by deleting "***and***"; and

On page 18, line 14, by deleting the underlined period and inserting "***; and***" in lieu thereof: and

On page 18, after line 14, by inserting:

"***(j) Access fees received by insurers, self-funded plans, and employer-organized associations under Section 27 of this Act.***"; and

On page 22, line 8, by deleting "***January***" and inserting "***April***" in lieu thereof, and after "***2001***" by inserting "***, or December 31, 2000, if the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 27, line 26, by deleting "***December 31, 2000***" and by inserting in lieu thereof "***March 31, 2001, or December 31, 2000, if the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 28, line 20 and on line 21, by deleting "***December 31, 2000***" and by inserting in lieu thereof "***March 31, 2001, or December 31, 2000, if the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 35, line 1, page 36, line 12, page 37, lines 23 and 26, and page 40, line 3, by deleting "***January 1, 2001***" and by inserting in lieu thereof "***April 1, 2001, or January 1, 2001, if the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 43, line 18, by deleting "***October 1, 2000***" and inserting "***April 1, 2001***" in lieu thereof; and

On page 43, line 20, by deleting "***October 1, 2000***" and inserting "***April 1, 2001***" in lieu thereof; and

On page 44, line 11, after "until" by inserting "***April 1, 2001***" and by placing "[" before and striking through "January 1,"; and

On page 44, line 12, by deleting "***2001***" and removing "["; and

On page 48, line 12, after "***2001***" by deleting "***, and***" and inserting "***under***" in lieu thereof; and

On page 48, line 21, by inserting "***subsection***" after "***Notwithstanding***"; and

On page 52, line 1, by deleting "***Act***" and inserting "***section***" in lieu thereof; and

On page 52, by deleting line 7 through page 59, line 6 and by inserting in lieu thereof:

"SECTION 26. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A statewide provider network may be created. The statewide provider network shall be used for Kentucky Access and may be leased by insurers, self insured employer organized associations, and self-insured plans meeting the department's criteria as specified in Section 27 of this Act.

(2) The department shall operate and administer the statewide provider network using funds designated for the Kentucky Access fund.

(3) The statewide provider network shall include various providers from all geographic regions of the state.

(4) The department shall develop provider contracts for the statewide provider network that contain standard terms and conditions for all similarly situated providers, do not discriminate in those terms among similarly situated providers, and include the following:

(a) General terms and conditions of participation, including the requirement to comply with all provisions of this section or any other provision of this chapter specifying terms that are required to be contained in, or are prohibited from being contained in, any agreement between the department and a provider;

(b) Credentialing standards;

(c) Quality standards;

(d) Utilization review standards;

(e) Data management standards;

(f) Claims payment standards in accordance with this chapter;

(g) Internal and external grievance procedures in accordance with this chapter;

(h) A continuity of care provision;

(i) A contract term of twenty-four (24) months, renewable for the same period, with a provision allowing termination for any reason upon ninety (90) days prior written notice; and

(j) Any other provision which the department, acting in conjunction with the Contracts Review Advisory Committee established in subsection (10) of this section, determines is necessary or appropriate.

(5) The department shall be responsible for initial contracting, contract renewal, credentialing and recredentialing for the statewide provider network.

(6) A provider shall have freedom of choice to:

(a) Make application to enroll in the statewide provider network at any time; and

(b) Terminate participation in the statewide provider network in accordance with subsection (4)(i) of this section.

(7) The statewide provider network shall meet the requirements of KRS 304.17A-270. The department shall not charge any application fee or other fee for a provider to participate in the statewide provider network. Any provider willing to enroll and meeting the contract requirements in subsection (4) of this section shall be enrolled in the statewide provider network. In order to become a statewide network participating provider, a provider shall execute and comply with the applicable provisions of the written provider contract.

(8) The department shall establish provider reimbursement rates for the statewide provider network.

(a) Physician services shall be reimbursed as follows:

1. For the calendar year 2001, physician fees for Kentucky Access enrollees shall be set at one hundred thirty percent (130%) of the Medicare Physician Fee Schedule for calendar year 2001, as established by the Health Care Financing Administration. For subsequent years, physician fees for Kentucky Access shall be based on the Medicare physician fee schedule for calendar year 2001 increased by the annual percentage change in the Medicare Economic Index (MEI) for the prior calendar year;

2. For all enrollees covered by the statewide network other than those in Kentucky Access, the fees shall be initially established at one hundred thirty-eight percent (138%) of the Medicare Physician Fee Schedule for calendar year 2001. For subsequent years, physician fees for these enrollees shall be the based on the Medicare fee schedule for calendar year 2001 increased by the annual percentage change in the Medicare Economic Index (MEI) for the prior calendar year; and

3. New or revised CPT codes for the year 2002 and thereafter shall be incorporated into the physician fee schedule at the payment level established using the RBRVS formula applicable to the year of their revision or introduction, and annually updated by the percentage change established under the MEI.

(b) Hospital services for enrollees covered by the statewide provider network other than Kentucky Access shall be reimbursed as follows:

1. The inpatient reimbursement rate for acute care hospitals located in an urban area shall be one hundred forty percent (140%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;

2. The inpatient reimbursement rate for acute care hospitals located in a rural area shall be one hundred eighty percent (180%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG *weights that are in effect on the date of the patient's discharge;*

3. The inpatient reimbursement rate under subparagraphs 1. and 2. of this paragraph shall utilize the Medicare prospective payment rate and includes the operating base rate (adjusted for wage index and case mix), capital base rate, disproportionate share percentage (DSH), and the Direct or Indirect Medical Education Percentage. The rate shall be updated annually for the HCFA Market Basket inflation as published in the Federal Register and effective for the preceding year.

4. Hospitals that are reimbursed under Medicare TEFRA reimbursement methodology shall be reimbursed for inpatient services at one hundred forty percent (140%) of the Medicare per diem rate effective January 1, 2001, for urban hospitals and at one hundred eighty percent (180%) of the Medicare per diem rate effective January 1, 2001 for rural hospitals. That rate shall be updated annually for the HCFA Market Basket inflation factor for psychiatric, rehabilitation and long term care facilities and units as published in the Federal Register and effective for the preceding fiscal year; and

5. Outpatient reimbursement for each hospital shall be at ninety percent (90%) of the amount regularly charged by the participating hospital. Annual increases in an individual hospital's charges shall not exceed the HCFA Market Basket inflation factor as published in the Federal Register and effective for the preceding year for purposes of annually updating reimbursement under this provision. Each hospital that elects to participate in the network shall submit a schedule representing the amounts regularly charged as of January 1 of each year to the department for its review. Material submitted under this section is proprietary and not subject to the requirements of the open records law.

(c) Hospital services for Kentucky Access enrollees shall be reimbursed at seventy-five percent (75%) of the amount regularly charged by the participating hospital. Annual increases in an individual hospital's charges shall not exceed the HCFA Market Basket inflation factor as published in the Federal Register and effective for the preceding year for purposes of annually updating reimbursement under this provision. Each hospital that elects to participate in the network shall submit a schedule representing the amounts regularly charged as of January 1 of each year to the department for its review. Material submitted under this section is proprietary and not subject to the requirements of the open records law.

(d) Other services shall be reimbursed at rates established by administrative regulations promulgated by the department.

(9) Notwithstanding any provision to the contrary, it shall be unlawful:

(a) For network providers to jointly coordinate a network-wide cessation, reduction or limitation of health care services to the department, lessor of the Kentucky Access network, or to any insurers;

(b) To require a provider duly licensed in this Commonwealth to participate in the Kentucky Access provider network; or

(c) To require a provider to exclusively participate in the Kentucky Access provider network.

(10) A Contract Review Advisory Committee is hereby established to begin operations on January 1, 2001, and shall be composed of eight (8) members who shall serve terms of two (2) years beginning on January 1, 2001. Three (3) members shall be selected by the Kentucky Medical Association from its membership and three (3) members shall be selected by the Kentucky Hospital Association from its membership. The commissioner shall appoint one (1) physician who is not a Kentucky Medical Association member, and one (1) consumer representative. The committee shall provide advice and counsel and make recommendations to the department regarding the development and terms and conditions of the provider contracts that shall be used for the statewide provider network. The committee shall select from its membership a chair who shall serve as chair for one (1) year. The committee shall meet at least quarterly and at any time upon call of the chair. The committee shall be attached to the department for administrative purposes.

(11) A provider contract may be modified based on mutual agreement between the provider and department.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the health insurance market will become more competitive if a statewide provider network is available to insurers, and that leasing the provider network developed for Kentucky Access under subsection (17) of Section 4 of this Act under the criteria set forth in this section will result in a competitive marketplace that creates significant efficiencies in which consumers will have the benefit of high quality, cost-effective health care and additional choices of risk-takers and products. Although the criteria set forth in this section may in some circumstances result in certain anticompetitive effects, the General Assembly finds that it has taken the necessary steps to assure that any such anticompetitive acts shall not prevent or impede the formation or operation of other networks or plans or result in payments to providers that exceed competitive levels.

(2) The department may perform any actions that may be necessary and proper to lease the provider network developed for Kentucky Access under subsection (17) of Section 4 of this Act only to the organizations that meet the following criteria, to the satisfaction of the department, including, but not limited to, the following:

(a) The organization has sufficient staff and written policies and procedures for member enrollment, eligibility determination, provider relations, utilization management, quality improvement, drug utilization review, premium billing and collection, data reporting and any other responsibilities requested by the department;

(b) The organization has written policies and procedures to ensure timely and efficient payment of claims, including, but not limited to, the following:

1. Development and provision of a claims billing manual to health care providers participating in the network that includes information relating to the proper billing of a claim, including any required attachments;

2. Payment of all claims in accordance with the provisions of this chapter required of entities issuing health benefit plans; and

3. Notification of an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility for deductible or coinsurance amounts related to a paid claim;

(c) The organization has written policies and procedures to issue denial letters under KRS 304.17A-540 and other applicable law for denial of preauthorization and precertification requests for medical necessity, medical appropriations, and contract coverage determinations;

(d) The organization agrees to submit information to the department under KRS 304.17A-330;

(e) The organization agrees to submit information to the department regarding the applicant's operation and financial condition. The frequency, content, and form of the reports shall be determined by the department;

(f) The organization agrees to be subject to the examination by the department under Subtitles 2 and 3 of this chapter;

(g) The organization agrees to pay an amount equal to one dollar ($1) per enrollee per month to access the provider network;

(h) The organization agrees to maintain at all times during the lease, a net worth that meets or exceeds the risk based capital requirements for the company action level;

(i) The organization agrees to pay the providers in accordance with the providers participating in the network in accordance with Section 26 of this Act;

(j) The organization agrees to abide by the quality improvement policies and procedures agreed to between the participating provider network and the department;

(k) The organization agrees to conduct utilization review activities in accordance with applicable state law and abide by the policies and procedures agreed to between the participating provider network and the department;

(l) The organization agrees to abide by the patient protection provisions set forth in KRS 304.17A-500 to 304.17A-590;

(m) The organization agrees to maintain an internal appeals process and a process for independent external review of adverse determinations in accordance with applicable state law and any written policies and procedures established by the network that are not in conflict with applicable law;

(n) The organization agrees to submit to the department for resolution conflicts with providers participating in the network that cannot be resolved internally and agrees to be bound by the department's determination;

(o) The organization agrees to continue abiding by the terms of the lease agreement after its termination for purposes of assuring continuity of care to members, as required by statute and the specific terms of the lease;

(p) The organization agrees to bear all costs in providing provider network directories to the applicant's members;

(q) The organization agrees to designate a management employee responsible for assuring compliance with the terms of the lease agreement and responsible for the resolution of any issues with either the department or a member of the participating provider network;

(r) If the organization is a self-funded plan not otherwise regulated by the department, it agrees to abide by and be subject to all of the applicable laws and regulations required for insurers issuing health benefit plans and pays the assessments on insurers as set forth in Section 11 of this Act;

(s) The organization agrees to any other actions required by the department as may be necessary and proper for the execution of the lease agreement and to achieve the objectives of the legislature as set forth in subsection (1) of this section; and

(t) The organization agrees to abide by the terms and conditions of its contracts with the department and the network.

(3) The criteria set forth in subsection (2) of this section shall be incorporated into an agreement developed by the department for leasing the network. The lessor may cancel the lease agreement by providing the department with at least one hundred eighty (180) days' advance written notice and meeting any other applicable requirements of KRS

304.17A-240.

(4) An insurer that leases the network shall not sublease the network to another person, insurer, or organization or in any way transfer the lease to another entity.

(5) The commissioner may terminate the lease with any insurer in the event the lessor substantially fails to comply with the terms of the lease, if the commissioner gives the insurer written notice of the deficiency and the insurer fails to correct the deficiencies to the satisfaction of the commissioner within sixty (60) days of receipt of the notice.

(6) An insurer that leases the network created under subsection (17) of Section 4 of this Act may utilize another network to provide a health benefit plan product different from that offered through the network created under subsection (17) of Section 4 of this Act.

(7) In no event shall the commissioner lease the network to an entity if the total membership accessing the network exceeds two hundred fifty thousand (250,000) members, excluding members of any self-funded plan offered to employees of the Commonwealth of Kentucky. If there are applicants with membership that in the aggregate exceeds the capacity requirements set forth in this subsection, the commissioner shall accept the applications based upon the order in which the applications were completely filed with the department.

(8) On or before January 1, 2004, and every two years thereafter, the commissioner shall report to the members of the General Assembly his or her findings regarding the economic impact of the leasing of the provider network developed under subsection (17) of Section 4 of this Act. The report shall include, but not be limited to, the commissioner's finding of the level of competition existing as of the date of the report compared to the level of competition as of the date of the effective date of this section, any significant efficiencies that have been created as a result of the leasing of the provider network, whether any additional products have been offered to consumers, and whether the leasing of the network has prevented or impeded the formation or operation of other network or plans, or resulted in reimbursement charges paid to providers being charged above competitive levels, to any recommendations for any modifications necessary to achieve or maintain a competitive marketplace. In developing the report, the commissioner shall consider the findings and recommendations of the Health Insurance Advisory Council and any other interested parties.

(9) The commissioner shall not enter into any lease arrangement under which an insurer would lease only a portion of the network created under subsection (17) of Section 4 of this Act."; and

renumbering subsequent sections accordingly; and

On page 60, line 18, before "The" by inserting "Effective April 1, 2001, or January 1, 2001, if the commissioner has certified the statewide provider network as operational according to Section 3 of this Act," and

On page 61, line 8, deleting "January 1, 2001" and inserting "April 1, 2001, or January 1, 2001, if the commissioner has certified the statewide provider network as operational according to Section 3 of this Act," and

On page 61, by deleting line 9 in its entirety.

Floor Amendment No. 11 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 2, line 8, by deleting "***September 30, 2000,***" and inserting "***the date ninety (90) days after the commissioner certifies the statewide provider network is operational according to Section 3 of this Act,***"; and

On page 6, line 20, by deleting "***January 1, 2001***" and inserting "***ninety (90) days after the commissioner has certified that the statewide provider network is operational***"; and

On page 13, line 26, by deleting "***October 1, 2000***" and inserting "***the date ninety (90) days after the commissioner certifies the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 22, line 8, by deleting "***January 1, 2001***" and inserting "***on the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 27, line 26, by deleting "***December 31, 2000***" and by inserting "***the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 28, line 20 and on line 21, by deleting "***December 31, 2000***" and by inserting "***the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 35, line 1, page 36, line 12, and page 37, line 23, by deleting "***January 1, 2001***" and by inserting "***on the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 37, line 26, and on page 40, line 3, by deleting "***January 1, 2001***" and by inserting "***the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 43, line 18, by deleting "***October 1, 2000***" and inserting "***the date ninety (90) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 43, line 20, by deleting "***October 1, 2000,***" and inserting "***the date ninety (90) days after the commissioner has***

certified the statewide provider network to be operational according to Section 3 of this Act"; and

On page 61, line 8, by deleting "January 1, 2001" and inserting " on the date ninety (90) days after the commissioner has certified the statewide provider network as operational according to Section 3 of this Act".

Floor Amendment No. 12 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 2, line 8, by deleting "***September 30, 2000,***" and inserting "***the date one hundred eighty (180) days after the commissioner certifies the statewide provider network is operational according to Section 3 of this Act,***"; and

On page 6, line 20, by deleting "***January 1, 2001***" and inserting "***one hundred eighty (180) days after the commissioner has certified that the statewide provider network is operational***"; and

On page 13, line 26, by deleting "***October 1, 2000***" and inserting "***the date one hundred eighty (180) days after the commissioner certifies the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 22, line 8, by deleting "***January 1, 2001***" and inserting "***on the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 27, line 26, by deleting "***December 31, 2000***" and by inserting "***the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 28, line 20 and on line 21, by deleting "***December 31, 2000***" and by inserting "***the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 35, line 1, page 36, line 12, and page 37, line 23, by deleting "***January 1, 2001***" and by inserting "***on the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 37, line 26, and on page 40, line 3, by deleting "***January 1, 2001***" and by inserting "***the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 43, line 18, by deleting "***October 1, 2000***" and inserting "***the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 43, line 20, by deleting "***October 1, 2000,***" and inserting "***the date one hundred eighty (180) days after the commissioner has certified the statewide provider network to be operational according to Section 3 of this Act***"; and

On page 61, line 8, by deleting "January 1, 2001" and inserting " on the date one hundred eighty (180) days after the commissioner has certified the statewide provider network as operational according to Section 3 of this Act".

Floor Amendment No. 28 to the Committee Substitute to **HB 502**, by Representative Weaver:

On page 3, line 25, delete "7,453,300" and insert "7,484,300" and delete "14,108,800" and insert "14,139,800";

On page 3, line 27, delete "19,910,000" and insert "19,941,000" and delete "30,466,400" and insert "30,497,400"; and

On page 4, after line 11 but before line 12, by adding the following:

"Included in the above General Fund appropriation in each fiscal year is $31,000 to be used for additional staffing needs.", and by adjusting all subsequent subtotals and totals accordingly.

Floor Amendment No. 13 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 45, after line 8, by inserting:

"SECTION 24. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A statewide provider network shall be created. The statewide provider network shall be used for Kentucky Access and may be leased by insurers, self insured employer organized associations, and self-insured plans meeting the department's criteria as specified in Section 25 of this Act.

(2) The department shall operate and administer the statewide provider network using funds designated for the Kentucky Access fund.

(3) The statewide provider network shall include various providers from all geographic regions of the state.

(4) The department shall develop provider contracts for the statewide provider network that contain standard terms and conditions for all similarly situated providers, do not discriminate in those terms among similarly situated providers, and include the following:

(a) General terms and conditions of participation, including the requirement to comply with all provisions of this section or any other provision of this chapter specifying terms that are required to be contained in, or are prohibited from being contained in, any agreement between the department and a provider;

(b) Credentialing standards;

(c) Quality standards;

(d) Utilization review standards;

(e) Data management standards;

(f) Claims payment standards in accordance with this chapter;

(g) Internal and external grievance procedures in accordance with this chapter;

(h) A continuity of care provision;

(i) A contract term of twenty-four (24) months, renewable for the same period, with a provision allowing termination for any reason upon ninety (90) days prior written notice; and

(j) Any other provision which the department, acting in conjunction with the Contracts Review Advisory Committee established in subsection (10) of this section, determines is necessary or appropriate.

(5) The department shall be responsible for initial contracting, contract renewal, credentialing and recredentialing for the statewide provider network.

(6) A provider shall have freedom of choice to:

(a) Make application to enroll in the statewide provider network at any time; and

(b) Terminate participation in the statewide provider network in accordance with subsection (4)(i) of this section.

(7) The statewide provider network shall meet the requirements of KRS 304.17A-270. The department shall not charge any application fee or other fee for a provider to participate in the statewide provider network. Any provider willing to enroll and meeting the contract requirements in subsection (4) of this section shall be enrolled in the statewide provider network. In order to become a statewide network participating provider, a provider shall execute and comply with the applicable provisions of the written provider contract.

(8) The department shall establish provider reimbursement rates for the statewide provider network.

(a) Physician services shall be reimbursed as follows:

1. For all enrollees covered by the statewide network, the fees shall be initially established at one hundred thirty-eight percent (138%) of the Medicare Physician Fee Schedule for calendar year 2001. For subsequent years, physician fees for these enrollees shall be the based on the Medicare fee schedule for calendar year 2001 increased by the annual percentage change in the Medicare Economic Index (MEI) for the prior calendar year; and

2. New or revised CPT codes for the year 2002 and thereafter shall be incorporated into the physician fee schedule at the payment level established using the RBRVS formula applicable to the year of their revision or introduction, and annually updated by the percentage change established under the MEI.

(b) Hospital services for enrollees covered by the statewide provider network shall be reimbursed as follows:

1. The inpatient reimbursement rate for acute care hospitals located in an urban area shall be one hundred forty percent (140%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;

2. The inpatient reimbursement rate for acute care hospitals located in a rural area shall be one hundred eighty percent (180%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;

3. The inpatient reimbursement rate under subparagraphs 1. and 2. of this paragraph shall utilize the Medicare prospective payment rate and includes the operating base rate (adjusted for wage index and case mix), capital base rate, disproportionate share percentage (DSH), and the Direct or Indirect Medical Education Percentage. The rate shall be updated annually for the HCFA Market Basket inflation as published in the Federal Register and effective for the preceding year.

4. Hospitals that are reimbursed under Medicare TEFRA reimbursement methodology shall be reimbursed for inpatient services at one hundred forty percent (140%) of the Medicare per diem rate effective January 1, 2001, for urban hospitals and at one hundred eighty percent (180%) of the Medicare per diem rate effective January 1, 2001 for rural hospitals. That rate shall be updated annually for the HCFA Market Basket inflation factor for psychiatric, rehabilitation and long term care facilities and units as published in the Federal Register and effective for the preceding fiscal year; and

5. Outpatient reimbursement for each hospital shall be at ninety percent (90%) of the amount regularly charged by the participating hospital. Annual increases in an individual hospital's charges shall not exceed the HCFA Market Basket inflation factor as published in the Federal Register and effective for the preceding year for purposes of annually updating reimbursement under this provision. Each hospital that elects to participate in the network shall submit a schedule representing the amounts regularly charged as of January 1 of each year to the department for its review. Material submitted under this section is proprietary and not subject to the requirements of the open records law.

(c) Other services shall be reimbursed at rates established by administrative regulations promulgated by the department.

(9) Notwithstanding any provision to the contrary, it shall be unlawful:

(a) To require a provider duly licensed in this Commonwealth to participate in the Kentucky Access provider network; or

(b) To require a provider to exclusively participate in the Kentucky Access provider network.

(10) A Contract Review Advisory Committee is hereby established to begin operations on the effective date of this section, and shall be composed of eight (8) members who shall serve terms of two (2) years. Three (3) members shall be selected by the Kentucky Medical Association from its membership and three (3) members shall be selected by the Kentucky Hospital Association from its membership. The commissioner shall appoint one (1) physician who is not a Kentucky Medical Association member, and one (1) consumer representative. The committee shall provide advice and counsel and make recommendations to the department regarding the development and terms and conditions of the provider contracts that shall be used for the statewide provider network. The committee shall select from its membership a chair who shall serve as chair for one (1) year. The committee shall meet at least quarterly and at any time upon call of the chair. The committee shall be attached to the department for administrative purposes.

(11) A provider contract may be modified based on mutual agreement between the provider and department.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the health insurance market will become more competitive if a statewide provider network is available to insurers, and that leasing the provider network developed for Kentucky Access under subsection (17) of Section 4 of this Act under the criteria set forth in this section will result in a competitive marketplace that creates significant efficiencies in which consumers will have the benefit of high quality, cost-effective health care and additional choices of risk-takers and products. Although the criteria set forth in this section may in some circumstances result in certain anticompetitive effects, the General Assembly finds that it has taken the necessary steps to assure that any such anticompetitive acts shall not prevent or impede the formation or operation of other networks or plans or result in payments to providers that exceed competitive levels.

(2) The department may perform any actions that may be necessary and proper to lease the provider network developed for Kentucky Access under subsection (17) of Section 4 of this Act only to the organizations that meet the following criteria, to the satisfaction of the department, including, but not limited to, the following:

(a) The organization has sufficient staff and written policies and procedures for member enrollment, eligibility determination, provider relations, utilization management,- quality improvement, drug utilization review, premium billing and collection, data reporting and any other responsibilities requested by the department;

(b) The organization has written policies and procedures to ensure timely and efficient payment of claims, including, but not limited to, the following:

1. Development and provision of a claims billing manual to health care providers participating in the network that includes information relating to the proper billing of a claim, including any required attachments;

2. Payment of all claims in accordance with the provisions of this chapter required of entities issuing health benefit plans; and

3. Notification of an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility for deductible or coinsurance amounts related to a paid claim;

(c) The organization has written policies and procedures to issue denial letters under KRS 304.17A-540 and other applicable law for denial of preauthorization and precertification requests for medical necessity, medical appropriations, and contract coverage determinations;

(d) The organization agrees to submit information to the department under KRS 304.17A-330;

(e) The organization agrees to submit information to the department regarding the applicant's operation and financial condition. The frequency, content, and form of the reports shall be determined by the department;

(f) The organization agrees to be subject to the examination by the department under Subtitles 2 and 3 of this chapter;

(g) The organization agrees to pay an amount equal to one dollar ($1) per enrollee per month to access the provider network;

(h) The organization agrees to maintain at all times during the lease, a net worth that meets or exceeds the risk based capital requirements for the company action level;

(i) The organization agrees to pay the providers in accordance with the providers participating in the network in accordance with Section 26 of this Act;

(j) The organization agrees to abide by the quality improvement policies and procedures agreed to between the participating provider network and the department;

(k) The organization agrees to conduct utilization review activities in accordance with applicable state law and abide by the policies and procedures agreed to between the participating provider network and the department;

(l) The organization agrees to abide by the patient protection provisions set forth in KRS 304.17A-500 to 304.17A-590;

(m) The organization agrees to maintain an internal appeals process and a process for independent external review of adverse determinations in accordance with applicable state law and any written policies and procedures established by the network that are not in conflict with applicable law;

(n) The organization agrees to submit to the department for resolution conflicts with providers participating in the network that cannot be resolved internally and agrees to be bound by the department's determination;

(o) The organization agrees to continue abiding by the terms of the lease agreement after its termination for purposes of assuring continuity of care to members, as required by statute and the specific terms of the lease;

(p) The organization agrees to bear all costs in providing provider network directories to the applicant's members;

(q) The organization agrees to designate a management employee responsible for assuring compliance with the terms of the lease agreement and responsible for the resolution of any issues with either the department or a member of the participating provider network;

(r) If the organization is a self-funded plan not otherwise regulated by the department, it agrees to abide by and be subject to all of the applicable laws and regulations required for insurers issuing health benefit plans and pays the assessments on insurers as set forth in Section 11 of this Act;

(s) The organization agrees to any other actions required by the department as may be necessary and proper for the execution of the lease agreement and to achieve the objectives of the legislature as set forth in subsection (1) of this section; and

(t) The organization agrees to abide by the terms and conditions of its contracts with the department and the network.

(3) The criteria set forth in subsection (2) of this section shall be incorporated into an agreement developed by the department for leasing the network. The lessor may cancel the lease agreement by providing the department with at least one hundred eighty (180) days' advance written notice and meeting any other applicable requirements of KRS 304.17A-240.

(4) An insurer that leases the network shall not sublease the network to another person, insurer, or organization or in any way transfer the lease to another entity.

(5) The commissioner may terminate the lease with any insurer in the event the lessor substantially fails to comply with the terms of the lease, if the commissioner gives the insurer written notice of the deficiency and the insurer fails to correct the deficiencies to the satisfaction of the commissioner within sixty (60) days of receipt of the notice.

(6) An insurer that leases the network created under subsection (17) of Section 4 of this Act may utilize another network to provide a health benefit plan product different from that offered through the network created under subsection (17) of Section 4 of this Act.

(7) In no event shall the commissioner lease the network to an entity if the total membership accessing the network exceeds two hundred fifty thousand (250,000) members, excluding members of any self-funded plan offered to employees of the Commonwealth of Kentucky. If there are applicants with membership that in the aggregate exceeds the capacity requirements set forth in this subsection, the commissioner shall accept the applications based upon the order in which the applications were completely filed with the department.

(8) On or before January 1, 2002, and every two years thereafter, the commissioner shall report to the members of the General Assembly his or her findings regarding the economic impact of the leasing of the provider network developed under subsection (17) of Section 4 of this Act. The report shall include, but not be limited to, the commissioner's finding of the level of competition existing as of the date of the report compared to the level of competition as of the date of the effective date of this section, any significant efficiencies that have been created as a result of the leasing of the provider network, whether any additional products have been offered to consumers, and whether the leasing of the network has prevented or impeded the formation or operation of other network or plans, or resulted in reimbursement

charges paid to providers being charged above competitive levels, to any recommendations for any modifications necessary to achieve or maintain a competitive marketplace. In developing the report, the commissioner shall consider the findings and recommendations of the Health Insurance Advisory Council and any other interested parties.

(9) The commissioner shall not enter into any lease arrangement under which an insurer would lease only a portion of the network created under subsection (17) of Section 4 of this Act.", and by renumbering subsequent sections accordingly; and

On page 61, line 9, by deleting "24 to 31" and inserting "26 to 33".

Floor Amendment No. 3 to the House Committee Substitute to **SB 227**, by Representative Burch:

On page 43, after line 8, by inserting the following:

"Section 23. KRS 197.055 is amended to read as follows:

(1) The Department of Corrections, in conjunction with the Cabinet for Health Services, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the department, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the department shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the correctional medical authority and shall target persons who have been involved in or reasonably thought to have been involved in a high-risk behavior. For purposes of this subsection, "high-risk behavior" includes:

 (a) Sexual contact with any person within the institution;

 (b) The use of intravenous drugs;

 (c) Tattooing; and

 (d) Any other activity medically known to transmit the virus.

(3) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(4) The department shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the correctional medical authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The department shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a department employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) All testing procedures, disclosure, and payment shall be pursuant to KRS 438.250.

(8) The Department of Corrections shall submit to the Legislative Research Commission a report describing plans and activities of the Department of Corrections to test for and to manage human immunodeficiency virus, acquired immunodeficiency syndrome, and hepatitis C in the inmate population. The report shall include specific recommendations for consideration by the General Assembly, Justice Cabinet, and the Department of Corrections. The report shall be submitted to the Legislative Research Commission no later than September 30, 2001. Personnel and financial resources within the Department of Corrections shall be used in completing the report.".

Floor Amendment No. 14 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 1, line 1 through page 61, line 9, by deleting the entire amendment and inserting the following in lieu thereof:

"Beginning on page 1, line 1, and continuing through page 3, line 13, by deleting the language in its entirety and inserting the following in lieu thereof:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) To provide for health care services to low-income families, the Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to apply less restrictive income and resource methodologies for the purpose of determining family eligibility for Medicaid.

(2) To determine Medicaid eligibility for families with children for purposes of this section, and as provided under 42

U.S.C. sec. 1396u-1, the Cabinet for Health Services shall:

(a) Apply a resource limit of no less than four thousand dollars ($4,000) per household;

(b) Exempt two (2) cars from the resource limit for families with two (2) parents and one (1) car for families with one (1) parent; and

(c) Disregard household income to the extent that families with income up to one hundred percent (100%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, and who otherwise qualify, shall be eligible for Medicaid coverage.

(3) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

(4) To implement the provisions of this section, the Department for Medicaid Services shall apply, no later than September 1, 2000, for any federal waiver that might be necessary to:

(a) Exclude from coverage under this section adults who are enrolled in employer-offered health benefit plans, as defined in KRS 304.17A-005, in which the total amount of employer-required premium shares is less than ten percent (10%) of gross household income; and

(b) Provide for a copayment of three dollars ($3) for each adult enrolled under this section to be applied to physician office visits, laboratory services, radiology services, prescription drugs, hospital admissions, outpatient surgery, and nonemergency use of the emergency room.

(5) The cabinet shall permit families to apply for coverage under this section using the same application form used by the cabinet for purposes of determining children's eligibility for the Kentucky Children's Health Insurance Program established by KRS 205.6481 to 205.6495.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Eligible consumer" means any full-time resident of Kentucky who:

(a) Is age sixty-five (65) or older;

(b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and

(c) Is enrolled in the Qualified Medicare Beneficiary Program;

(3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 5 of this Act; and

(4) "Program" means the Kentucky Prescription Drug Assistance Program established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Prescription Drug Assistance Program is created for low-income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.

(2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be five hundred dollars ($500).

(3) A copayment of five dollars ($5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.

(4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.

(5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Develop an application and process to determine whether a person is an eligible consumer;

(b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and

(c) Implement all other provisions of Sections 2 to 5 of this Act.

(7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:

(a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and

(b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).

(2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.

(2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost-effectiveness of the program. " and by renumbering subsequent sections accordingly; and

On page 3 line 23, by deleting "***Sections 1 to 16***" and inserting "***Section 1 and Sections 2 to 5***"; and

On page 3, line 26, by deleting "***commissioner of the Department of Insurance***" and inserting "***commissioner of the Department for Medicaid Services***" in lieu thereof; and

On page 4, line 26, by deleting " ***and health insurance***"; and

On page 5, line 6, by deleting "***Department of Insurance***" and inserting "***Cabinet for Health Services***" in lieu thereof; and

On page 5, beginning on line 7 and continuing on line 8 by deleting "***health insurance consumers,***" and inserting "***consumers and***"; and

On page 5, line 8, by deleting "***, and insurance company representatives***"; and

On page 5, by deleting lines 12 and 13 in their entirety and inserting the following in lieu thereof:

"***(a) Seventy (70%) of all moneys in the fund shall be used to fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly created in Sections 2 to 5 of this Act.***"; and

On page 5, beginning on line 20 and continuing to line 21, by deleting "***the Kentucky Access fund***" and inserting "***fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly***"; and

On page 5, beginning on line 26 and continuing on line 27, by deleting "***and access to health insurance for Kentucky residents***"; and

On page 6, line 2, by deleting "***Sections 1 to 16***" and inserting "***Section 1 and Sections 2 to 5***"; and

On page 6, line 5, by deleting "***Sections 1 to 16***" and inserting "***Section 1 and Sections 2 to 5***"; and

On page 6, line 10, by deleting "***Sections 1 to 16***" and inserting "***Section 1 and Sections 2 to 5***"; and

Beginning on page 6, line 15 and continuing to page 58, line 9, by deleting Sections 3 to 33 in their entirety and inserting the following in lieu thereof:

"Section 7. (1) There is appropriated $7,000,000 for the fiscal year 2000-2001 and $7,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to fund the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act.

(2) There is appropriated $10,700,000 for fiscal year 2000-2001 and $14,300,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which together with corresponding federal matching funds shall be used to expand Medicaid coverage to low-income families up to 100% of the federal poverty level. The Cabinet for Health Services shall set the income disregards at levels designed to expend all the funds appropriated for this program, but ensure that the allocations are not exceeded. Every six months after the effective date of this Act, the cabinet shall report to the Interim Joint Committee on Health and Welfare the number of individuals enrolled in Medicaid under Section 1 of this Act, the amount of income disregarded in determining eligibility, the amount of funds that have been expended under Section 1 of this Act, and the number of copayments charged in each category of service.

(3) Any unexpended funds appropriated for the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act shall be reallocated for the expansion of Medicaid to low-income families according to Section 1 of this Act.

Section 8. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly; and whereas moneys received in the tobacco settlement agreement fund should be disbursed to begin funding important and worthy programs as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 15 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

On page 4, line 4 after "***Insurance***" by deleting"***, who shall serve as chairperson***";

On page 4, by deleting lines 7 to 10 in their entirety;

On page 4, line 11 by deleting "***(e)***" and by inserting "***(c)***";

On page 4, line 13 by deleting "***(f)***" and by inserting "***(d)***";

On page 4, line 14 by deleting "***(g)***" and by inserting "***(e)***";

On page 4, line 16 by deleting "***(h) Four (4) citizens at large of the Commonwealth***" and by inserting "***(f) Six (6) consumers who purchase health insurance in the individual market***";

On page 4, line 17 after "***Governor***" and before the period by inserting "***, and there shall be at least one (1) such consumer representative from each Congressional District***";

On page 4, line 18 after "***(2)***" by adding "***The chairperson of the board shall be elected by the members of the board.***" and after second use of the word "***the***" and before "***citizen***" by inserting "***consumer***" and by deleting "***citizen at-large***";

On page 4, line 19 after "***board***" by adding "***as described in paragraph (f) of subsection (1) of this section,***" and after "***expire***" and before "***one***" by inserting "***within one (1) year for one (1) member, within two (2) years for one (1) member, within three (3) years for two (2) members, and within four (4) years for two (2) members***" and after "***expire***" by deleting "***one (1), two (2), three (3), and four (4) years respectively***";

On page 4, line 24 by deleting "***Two (2)***" and inserting "***Three (3)***" and after the third use of the word "***the***" and before "***citizens***" by inserting "***consumer members***" and by deleting "***citizens at large***";

On page 4, line 25 after "***and***" and before "***two***" by inserting "***three (3)***" and by deleting "***two (2)***";

On page 5, line 6 after "***(4)***" by deleting the rest of line 6 in its entirety;

On page 5, by deleting lines 7 and 8 in their entirety;

On page 5, line 9 by deleting "***provided by the General Assembly.***"

On page 5, line 18, after "***research***" by inserting "***as provided in Section 24 of this Act***";

On page 5, line 20 after "***minors***" by inserting the following "***in accordance with the prevention program established in Section 25 of this Act***";

On page 5, line 21 after "***(6)***" by deleting the rest of line 21 in its entirety;

On page 5, by deleting lines 22 to 24 in their entirety;

On page 5, line 25 by deleting "***nor more than twenty-one (21) days before the scheduled date of the public hearing.***";

On page 6, line 3 after "***(7)***" by deleting the rest of line 3 in its entirety;

On page 6, line 4 by deleting "***programs established under Sections 1 to 16 of this Act.***"

On page 6, line 8 by deleting "***The authority may provide in its policies and procedures for indemnification***";

On page 6, by deleting line 9 in its entirety;

On page 6, line 10 after "***necessary***" and before "***to***" by deleting "***or convenient***";

On page 7, line 3 by deleting "***The department may provide in its policies and***";

On page 7, by deleting lines 4 and 5 in their entirety;

On page 22, line 8 by deleting "***January 1, 2002***" and by inserting in lieu thereof "***upon the implementation of Kentucky Access***";

On page 43, line 18 after "***2000,***" by adding "***or upon implementation of Kentucky Access,***";

On page 43, line 20 after "***2000,***" by adding "***or upon implementation of Kentucky Access,***";

On page 45, after line 8 by adding:

"SECTION 24. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The "Lung Cancer Research Fund" is created and shall receive funds each year from the tobacco settlement agreement fund created in KRS 248.654 and allocated to it by the Kentucky Health Care Improvement Authority as

authorized by subsection (5)(b) of Section 2 of this Act. The lung cancer research fund shall be used to finance the Lung Cancer Research Project described in subsection (5) of this section. No revenues from the lung cancer research fund shall be allocated until the board has adopted the strategic plan described in subsections (5) and (6) of this section.

(2) A research consortium between the University of Kentucky and the University of Louisville is created and shall be known as the Governance Board of the Lung Cancer Research Project. The consortium shall be attached to the Council on Postsecondary Education for administrative purposes.

(3) The board shall consist of nine (9) members appointed by the Governor as follows:

(a) Two (2) members shall be from the faculty of the School of Medicine at the University of Kentucky;

(b) Two (2) members shall be from the faculty of the School of Medicine at the University of Louisville;

(c) Two (2) members shall be from the Council on Postsecondary Education; and

(d) Three (3) members shall be from the state at large, one (1) of whom shall be appointed chair by the Governor.

(4) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Two (2) members shall be appointed for one (1) year;

(b) Two (2) members shall be appointed for two (2) years;

(c) Two (2) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(5) The Governance Board of the Lung Cancer Research Project shall develop and oversee the implementation of a twenty (20) year strategic plan that utilizes the resources of both the University of Louisville and the University of Kentucky in establishing the Lung Cancer Research Project. The Lung Cancer Research Project shall be a joint program to:

(a) Develop an expertise in the area of lung cancer research with an immediate focus on early detection and epidemiology and with an ultimate goal of eradication of lung cancer;

(b) Establish a statewide clinical trial network to make university-based clinical trials available to the community physician in order to bring the most innovative cancer treatments to all Kentuckians in need of these treatments;

(c) Leverage the resources earmarked for the Lung Cancer Research Project toward the certification of the cancer program at the University of Kentucky and the University of Louisville by the National Cancer Institute as a cancer center; and

(d) Undertake other initiatives consistent with the strategic plan.

(6) The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals; it shall be updated every two (2) years.

(7) The Governance Board of the Lung Cancer Research Project shall submit an annual report to the Governor and the Legislative Research Commission by September 1 each year for the preceding fiscal year, outlining its activities and expenditures.

(8) The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the lung cancer research fund and, if necessary in the opinion of the Auditor, the operations of the Lung Cancer Research Project and the lung cancer research fund.;

SECTION 25. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to protect all youth and adolescents from the use of tobacco, alcohol, and drugs by:

(a) Educating all youth and adolescents about the physiological and social consequences of tobacco, alcohol, and drug use and encouraging healthy lifestyles through a comprehensive statewide program; and

(b) Expanding leadership and dedicating resources to establish new programs and to enhance existing programs that lead to the prevention, reduction, and cessation of tobacco, alcohol, and drug use.

(2) The General Assembly hereby authorizes the Cabinet for Health Services to develop and establish a comprehensive and coordinated program for educating students in the public schools on prevention, reduction, and cessation of tobacco, alcohol, and drug use. The comprehensive and coordinated plan shall employ a variety of effective approaches including:

(a) Public education through printed materials, brochures, and video programs;

(b) Health education curricula that are research-based and proven effective;

(c) Training for teachers, school employees, and parents;

(d) Counseling and cessation programs and services; and

(e) Partnerships with community-based organizations including public health departments that conduct prevention activities.

SECTION 26. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The State Advisory Council On The Prevention of Tobacco, Alcohol, and Drug Use By Youth is hereby created and attached to the Health Services Cabinet. The council shall advise the secretary of the Health Services Cabinet on the development and implementation of the state comprehensive and coordinated program on the prevention of tobacco, alcohol, and drug use; make recommendations on the criteria for distributing grants to community-based organizations, including public health departments; and monitor and evaluate the effectiveness of programs and activities conducted by the Health Services Cabinet.

(2) The council shall be composed of seven (7) members appointed by the Governor, with at least one (1) representative from each Congressional District. The chief executive officers or their designees from the Cabinet for Families and Children, the Cabinet for Health Services, and the Center for School Safety shall serve as ex officio members.

(3) Each council member shall serve a four (4) year term or until a successor is appointed, except that for initial appointments to the council, two (2) of the members shall be appointed to serve a two (2) year term, two (2) of the members shall be appointed to serve a three (3) year term, and three (3) of the members shall be appointed to serve a four (4) year term. A member may be reappointed but may not serve more than two (2) consecutive terms.

(4) The council shall elect a chair from its membership annually, establish operational procedures, and meet at least four (4) times a year.

(5) The council members who are not state agency representatives shall be remunerated for actual and necessary expenses incurred while attending meetings. These expenses shall be reimbursed from general funds allocated to the Health Services Cabinet and not from funds allocated to the prevention, reduction, and cessation program.

SECTION 27. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Funds allocated from the Kentucky Health Care Improvement Authority as authorized by subsection (5)(c) of Section 2 of this Act for the prevention, reduction, and cessation program established under Section 25 of this Act shall be credited to a restricted account and shall not lapse but shall be carried forward in the next biennial budget. Appropriations shall supplement, not supplant, existing funds and resources.

(2) Of the funds allocated from the Kentucky Health Care Improvement Authority for the implementation of the comprehensive and coordinated plan:

(a) Ninety-five percent (95%) of funds shall be available to fund school or community-based grants to support prevention, reduction, and cessation programs;

(b) In the event that funds remain after all qualified school or community-based programs have received the funds requested, the cabinet shall use the remaining funds to promote prevention, reduction, and cessation programs; and

(c) Five percent (5%) of funds shall be used for the administration of the program and for the evaluation of the effectiveness of the prevention programs receiving grants.

(3) The Cabinet for Health Services shall provide to all public school districts and local health departments information regarding the availability of prevention funds, the requirements for receiving funds, and the grant application process.

(4) A local public health department may submit a grant application developed in partnership with public schools or school districts, other public and private community agencies, and organizations."; and by renumbering subsequent sections accordingly;

On page 52, line 26 after "program" and before "to" by inserting "*, or Kentucky Access,*";

On page 53, by removing the brackets and strike through from lines 6 to 11;

On page 53, line 12 by removing the strike through and the closing bracket from "~~(6)~~]"; and

On page 61, line 9, by deleting "24 to 31" and inserting "28 to 35".

Floor Amendment No. 10 to the Committee Substitute to **HB 366**, by Representative J. Turner:

On page 39, between lines 11 and 12, insert:

"SECTION 26. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

Members of the General Assembly shall not be detained while travelling to or returning from legislative sessions or meetings."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 16 to **HB 617**, by Representative Damron:

Beginning on page 1, line 1, and continuing through page 3, line 13, by deleting the language in its entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) To provide for health care services to low-income families, the Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to apply less restrictive income and resource methodologies for the purpose of determining family eligibility for Medicaid.

(2) To determine Medicaid eligibility for families with children for purposes of this section, and as provided under 42 U.S.C. sec. 1396u-1, the Cabinet for Health Services shall:

(a) Apply a resource limit of no less than four thousand dollars ($4,000) per household;

(b) Exempt two (2) cars from the resource limit for families with two (2) parents and one (1) car for families with one (1) parent; and

(c) Disregard household income to the extent that families with income up to one hundred percent (100%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, and who otherwise qualify, shall be eligible for Medicaid coverage.

(3) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

(4) To implement the provisions of this section, the Department for Medicaid Services shall apply, no later than September 1, 2000, for any federal waiver that might be necessary to:

(a) Exclude from coverage under this section adults who are enrolled in employer-offered health benefit plans, as defined in KRS 304.17A-005, in which the total amount of employer-required premium shares is less than ten percent (10%) of gross household income; and

(b) Provide for a copayment of three dollars ($3) for each adult enrolled under this section to be applied to physician office visits, laboratory services, radiology services, prescription drugs, hospital admissions, outpatient surgery, and nonemergency use of the emergency room.

(5) The cabinet shall permit families to apply for coverage under this section using the same application form used by the cabinet for purposes of determining children's eligibility for the Kentucky Children's Health Insurance Program established by KRS 205.6481 to 205.6495.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Eligible consumer" means any full-time resident of Kentucky who:

(a) Is age sixty-five (65) or older;

(b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and

(c) Is enrolled in the Qualified Medicare Beneficiary Program;

(3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 5 of this Act; and

(4) "Program" means the Kentucky Prescription Drug Assistance Program established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Prescription Drug Assistance Program is created for low-income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.

(2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be five hundred dollars ($500).

(3) A copayment of five dollars ($5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.

(4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.

(5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which

applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Develop an application and process to determine whether a person is an eligible consumer;

(b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and

(c) Implement all other provisions of Sections 2 to 5 of this Act.

(7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:

(a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and

(b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).

(2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.

(2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost-effectiveness of the program." and by renumbering subsequent sections accordingly; and

On page 3 line 23, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 3, line 26, by deleting "*commissioner of the Department of Insurance*" and inserting "*commissioner of the Department for Medicaid Services*" in lieu thereof; and

On page 4, line 26, by deleting " *and health insurance*"; and

On page 5, line 6, by deleting "*Department of Insurance*" and inserting "*Cabinet for Health Services*" in lieu thereof; and

On page 5, beginning on line 7 and continuing on lie 8 by deleting "*health insurance consumers,*" and inserting "*consumers and*"; and

On page 5, lines 8 and 9, by deleting "*, and insurance company representatives*"; and

On page 5, by deleting lines 12 and 13 in their entirety and inserting the following in lieu thereof:

"*(a) Seventy (70%) of all moneys in the fund shall be used to fund Medicaid coverage for low-income families, the Kentucky Prescription Drug Assistance Program for the elderly created in Sections 2 to 5 of this Act, and the statewide provider network created in Sections 7 and 8 of this Act.*"; and

On page 5, beginning on line 20 and continuing to line 21, by deleting "*the Kentucky Access fund*" and inserting "*fund Medicaid coverage for low-income families, the Kentucky Prescription Drug Assistance Program for the elderly, and the statewide provider network*"; and

On page 5, beginning on line 26 and continuing on line 27, by deleting "*and access to health insurance for Kentucky residents*"; and

On page 6, line 2, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 5, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 10, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

Beginning on page 6, line 15 and continuing to page 58, line 9, by deleting Sections 3 to 33 in their entirety and inserting the following in lieu thereof:

"SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A statewide provider network shall be created by the Department of Insurance. The statewide provider network may be leased by insurers, self insured employer organized associations, and self-insured plans meeting the department's criteria as specified in Section 8 of this Act.

(2) The department shall operate and administer the statewide provider network.

(3) The statewide provider network shall include various providers from all geographic regions of the state.

(4) The department shall develop provider contracts for the statewide provider network that contain standard terms and conditions for all similarly situated providers, do not discriminate in those terms among similarly situated providers, and include the following:

- *(a) General terms and conditions of participation, including the requirement to comply with all provisions of this section or any other provision of this chapter specifying terms that are required to be contained in, or are prohibited from being contained in, any agreement between the department and a provider;*
- *(b) Credentialing standards;*
- *(c) Quality standards;*
- *(d) Utilization review standards;*
- *(e) Data management standards;*
- *(f) Claims payment standards in accordance with this chapter;*
- *(g) Internal and external grievance procedures in accordance with this chapter;*
- *(h) A continuity of care provision;*
- *(i) A contract term of twenty-four (24) months, renewable for the same period, with a provision allowing termination for any reason upon ninety (90) days prior written notice; and*
- *(j) Any other provision which the department, acting in conjunction with the Contracts Review Advisory Committee established in subsection (9) of this section, determines is necessary or appropriate.*

(5) The department shall be responsible for initial contracting, contract renewal, credentialing and recredentialing for the statewide provider network.

(6) A provider shall have freedom of choice to:

- *(a) Make application to enroll in the statewide provider network at any time; and*
- *(b) Terminate participation in the statewide provider network in accordance with subsection (4)(i) of this section.*

(7) The statewide provider network shall meet the requirements of KRS 304.17A-270. The department shall not charge any application fee or other fee for a provider to participate in the statewide provider network. Any provider willing to enroll and meeting the contract requirements in subsection (4) of this section shall be enrolled in the statewide provider network. In order to become a statewide network participating provider, a provider shall execute and comply with the applicable provisions of the written provider contract.

(8) The department shall establish provider reimbursement rates for the statewide provider network.

- *(a) Physician services shall be reimbursed as follows:*
  - *1. For all enrollees covered by the statewide network, the fees shall be initially established at one hundred thirty-eight percent (138%) of the Medicare Physician Fee Schedule for calendar year 2001. For subsequent years, physician fees for these enrollees shall be the based on the Medicare fee schedule for calendar year 2001 increased by the annual percentage change in the Medicare Economic Index (MEI) for the prior calendar year; and*
  - *2. New or revised CPT codes for the year 2002 and thereafter shall be incorporated into the physician fee schedule at the payment level established using the RBRVS formula applicable to the year of their revision or introduction, and annually updated by the percentage change established under the MEI.*
- *(b) Hospital services for enrollees covered by the statewide provider network shall be reimbursed as follows:*
  - *1. The inpatient reimbursement rate for acute care hospitals located in an urban area shall be one hundred forty percent (140%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;*
  - *2. The inpatient reimbursement rate for acute care hospitals located in a rural area shall be one hundred eighty percent (180%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;*
  - *3. The inpatient reimbursement rate under subparagraphs 1. and 2. of this paragraph shall utilize the Medicare prospective payment rate and includes the operating base rate (adjusted for wage index and case mix), capital base rate, disproportionate share percentage (DSH), and the Direct or Indirect Medical Education Percentage. The rate shall be updated annually for the HCFA Market Basket inflation as published in the Federal Register and effective for the preceding year.*

4. *Hospitals that are reimbursed under Medicare TEFRA reimbursement methodology shall be reimbursed for inpatient services at one hundred forty percent (140%) of the Medicare per diem rate effective January 1, 2001, for urban hospitals and at one hundred eighty percent (180%) of the Medicare per diem rate effective January 1, 2001 for rural hospitals. That rate shall be updated annually for the HCFA Market Basket inflation factor for psychiatric, rehabilitation and long term care facilities and units as published in the Federal Register and effective for the preceding fiscal year; and*

5. *Outpatient reimbursement for each hospital shall be at ninety percent (90%) of the amount regularly charged by the participating hospital. Annual increases in an individual hospital's charges shall not exceed the HCFA Market Basket inflation factor as published in the Federal Register and effective for the preceding year for purposes of annually updating reimbursement under this provision. Each hospital that elects to participate in the network shall submit a schedule representing the amounts regularly charged as of January 1 of each year to the department for its review. Material submitted under this section is proprietary and not subject to the requirements of the open records law.*

(c) Other services shall be reimbursed at rates established by administrative regulations promulgated by the department.

(9) A Contract Review Advisory Committee is hereby established to begin operations on the effective date of this section, and shall be composed of eight (8) members who shall serve terms of two (2) years. Three (3) members shall be selected by the Kentucky Medical Association from its membership and three (3) members shall be selected by the Kentucky Hospital Association from its membership. The commissioner shall appoint one (1) physician who is not a Kentucky Medical Association member, and one (1) consumer representative. The committee shall provide advice and counsel and make recommendations to the department regarding the development and terms and conditions of the provider contracts that shall be used for the statewide provider network. The committee shall select from its membership a chair who shall serve as chair for one (1) year. The committee shall meet at least quarterly and at any time upon call of the chair. The committee shall be attached to the department for administrative purposes.

(10) A provider contract may be modified based on mutual agreement between the provider and department.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the health insurance market will become more competitive if a statewide provider network is available to insurers and will result in a competitive marketplace that creates significant efficiencies in which consumers will have the benefit of high quality, cost-effective health care and additional choices of risk-takers and products. Although the criteria set forth in this section may in some circumstances result in certain anticompetitive effects, the General Assembly finds that it has taken the necessary steps to assure that any such anticompetitive acts shall not prevent or impede the formation or operation of other networks or plans or result in payments to providers that exceed competitive levels.

(2) The department may perform any actions that may be necessary and proper to lease the provider network only to the organizations that meet the following criteria, to the satisfaction of the department, including, but not limited to, the following:

(a) The organization has sufficient staff and written policies and procedures for member-enrollment, eligibility determination, provider relations, utilization management, quality improvement, drug utilization review, premium billing and collection, data reporting and any other responsibilities requested by the department;

(b) The organization has written policies and procedures to ensure timely and efficient payment of claims, including, but not limited to, the following:

1. *Development and provision of a claims billing manual to health care providers participating in the network that includes information relating to the proper billing of a claim, including any required attachments;*
2. *Payment of all claims in accordance with the provisions of this chapter required of entities issuing health benefit plans; and*
3. *Notification of an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility for deductible or coinsurance amounts related to a paid claim;*

(c) The organization has written policies and procedures to issue denial letters under KRS 304.17A-540 and other applicable law for denial of preauthorization and precertification requests for medical necessity, medical appropriations, and contract coverage determinations;

(d) The organization agrees to submit information to the department under KRS 304.17A-330;

(e) The organization agrees to submit information to the department regarding the applicant's operation and financial condition. The frequency, content, and form of the reports shall be determined by the department;

(f) The organization agrees to be subject to the examination by the department under Subtitles 2 and 3 of this

chapter;

(g) The organization agrees to pay an amount equal to one dollar ($1) per enrollee per month to access the provider network;

(h) The organization agrees to maintain at all times during the lease, a net worth that meets or exceeds the risk based capital requirements for the company action level;

(i) The organization agrees to pay the providers in accordance with the providers participating in the network in accordance with Section 7 of this Act;

(j) The organization agrees to abide by the quality improvement policies and procedures agreed to between the participating provider network and the department;

(k) The organization agrees to conduct utilization review activities in accordance with applicable state law and abide by the policies and procedures agreed to between the participating provider network and the department;

(l) The organization agrees to abide by the patient protection provisions set forth in KRS 304.17A-500 to 304.17A-590;

(m) The organization agrees to maintain an internal appeals process and a process for independent external review of adverse determinations in accordance with applicable state law and any written policies and procedures established by the network that are not in conflict with applicable law;

(n) The organization agrees to submit to the department for resolution conflicts with providers participating in the network that cannot be resolved internally and agrees to be bound by the department's determination;

(o) The organization agrees to continue abiding by the terms of the lease agreement after its termination for purposes of assuring continuity of care to members, as required by statute and the specific terms of the lease;

(p) The organization agrees to bear all costs in providing provider network directories to the applicant's members;

(q) The organization agrees to designate a management employee responsible for assuring compliance with the terms of the lease agreement and responsible for the resolution of any issues with either the department or a member of the participating provider network;

(r) If the organization is a self-funded plan not otherwise regulated by the department, it agrees to abide by and be subject to all of the applicable laws and regulations required for insurers issuing health benefit plans;

(s) The organization agrees to any other actions required by the department as may be necessary and proper for the execution of the lease agreement and to achieve the objectives of the legislature as set forth in subsection (1) of this section; and

(t) The organization agrees to abide by the terms and conditions of its contracts with the department and the network.

(3) The criteria set forth in subsection (2) of this section shall be incorporated into an agreement developed by the department for leasing the network. The lessor may cancel the lease agreement by providing the department with at least one hundred eighty (180) days' advance written notice and meeting any other applicable requirements of KRS 304.17A-240.

(4) An insurer that leases the network shall not sublease the network to another person, insurer, or organization or in any way transfer the lease to another entity.

(5) The commissioner may terminate the lease with any insurer in the event the lessor substantially fails to comply with the terms of the lease, if the commissioner gives the insurer written notice of the deficiency and the insurer fails to correct the deficiencies to the satisfaction of the commissioner within sixty (60) days of receipt of the notice.

(6) An insurer that leases the network may utilize another network to provide a health benefit plan product different from that offered through the network.

(7) In no event shall the commissioner lease the network to an entity if the total membership accessing the network exceeds two hundred fifty thousand (250,000) members, excluding members of any self-funded plan offered to employees of the Commonwealth of Kentucky. If there are applicants with membership that in the aggregate exceeds the capacity requirements set forth in this subsection, the commissioner shall accept the applications based upon the order in which the applications were completely filed with the department.

(8) On or before January 1, 2002, and every two years thereafter, the commissioner shall report to the members of the General Assembly his or her findings regarding the economic impact of the leasing of the provider network. The report shall include, but not be limited to, the commissioner's finding of the level of competition existing as of the date of the report compared to the level of competition as of the date of the effective date of this section, any significant efficiencies that have been created as a result of the leasing of the provider network, whether any additional products have been offered to consumers, and whether the leasing of the network has prevented or impeded the formation or operation of other network or plans, or resulted in reimbursement charges paid to providers being charged above competitive levels, to any recommendations for any modifications necessary to achieve or maintain a competitive marketplace. In

developing the report, the commissioner shall consider the findings and recommendations of the Health Insurance Advisory Council and any other interested parties.

(9) The commissioner shall not enter into any lease arrangement under which an insurer would lease only a portion of the network.

Section 9. (1) There is appropriated $7,000,000 for the fiscal year 2000-2001 and $7,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to fund the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act.

(2) There is appropriated $10,700,000 for fiscal year 2000-2001 and $14,300,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which together with corresponding federal matching funds shall be used to expand Medicaid coverage to low-income families up to 100% of the federal poverty level. The Cabinet for Health Services shall set the income disregards at levels designed to expend all the funds appropriated for this program, but ensure that the allocations are not exceeded. Every six months after the effective date of this Act, the cabinet shall report to the Interim Joint Committee on Health and Welfare the number of individuals enrolled in Medicaid under Section 1 of this Act, the amount of income disregarded in determining eligibility, the amount of funds that have been expended under Section 1 of this Act, and the number of copayments charged in each category of service.

(3) There is appropriated $1,000,000 for the fiscal year 2000-2001 and $1,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to establish and adminster the statewide provider network created in Sections 7 and 8 of this Act.

(4) Any unexpended funds appropriated for the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act shall be reallocated for the expansion of Medicaid to low-income families according to Section 1 of this Act.

Section 10. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly; and whereas moneys received in the tobacco settlement agreement fund should be disbursed to begin funding important and worthy programs as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 17 to Floor Amendment No. 3 to **HB 617**, by Representative Damron:

Beginning on page 1, line 1, and continuing through page 3, line 18, by deleting the language in its entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) To provide for health care services to low-income families, the Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to apply less restrictive income and resource methodologies for the purpose of determining family eligibility for Medicaid.

(2) To determine Medicaid eligibility for families with children for purposes of this section, and as provided under 42 U.S.C. sec. 1396u-1, the Cabinet for Health Services shall:

(a) Apply a resource limit of no less than four thousand dollars ($4,000) per household;

(b) Exempt two (2) cars from the resource limit for families with two (2) parents and one (1) car for families with one (1) parent; and

(c) Disregard household income to the extent that families with income up to one hundred percent (100%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, and who otherwise qualify, shall be eligible for Medicaid coverage.

(3) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

(4) To implement the provisions of this section, the Department for Medicaid Services shall apply, no later than September 1, 2000, for any federal waiver that might be necessary to:

(a) Exclude from coverage under this section adults who are enrolled in employer-offered health benefit plans, as defined in KRS 304.17A-005, in which the total amount of employer-required premium shares is less than ten percent (10%) of gross household income; and

(b) Provide for a copayment of three dollars ($3) for each adult enrolled under this section to be applied to

physician office visits, laboratory services, radiology services, prescription drugs, hospital admissions, outpatient surgery, and nonemergency use of the emergency room.

(5) The cabinet shall permit families to apply for coverage under this section using the same application form used by the cabinet for purposes of determining children's eligibility for the Kentucky Children's Health Insurance Program established by KRS 205.6481 to 205.6495.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Eligible consumer" means any full-time resident of Kentucky who:

(a) Is age sixty-five (65) or older;

(b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and

(c) Is enrolled in the Qualified Medicare Beneficiary Program;

(3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 5 of this Act; and

(4) "Program" means the Kentucky Prescription Drug Assistance Program established under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Prescription Drug Assistance Program is created for low-income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.

(2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be five hundred dollars ($500).

(3) A copayment of five dollars ($5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.

(4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.

(5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Develop an application and process to determine whether a person is an eligible consumer;

(b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and

(c) Implement all other provisions of Sections 2 to 5 of this Act.

(7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:

(a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and

(b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).

(2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.

(2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost-effectiveness of the program." and by renumbering subsequent sections accordingly; and

On page 4 line 1, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 4, line 4, by deleting "*commissioner of the Department of Insurance*" and inserting "*commissioner of the Department for Medicaid Services*" in lieu thereof; and

On page 5, lines 3 to 4, by deleting " *and health insurance*"; and

On page 5, lines 9 and 10, by deleting "*Department of Insurance*" and inserting "*Cabinet for Health Services*" in lieu thereof; and

On page 5, on line 11 by deleting "*health insurance consumers,*" and inserting "*consumers and*"; and

On page 5, line 12, by deleting "*, and insurance company representatives*"; and

On page 5, by deleting lines 14 and 15 in their entirety and inserting the following in lieu thereof:

"*(a) Seventy (70%) of all moneys in the fund shall be used to fund Medicaid coverage for low-income families, the Kentucky Prescription Drug Assistance Program for the elderly created in Sections 2 to 5 of this Act, and the statewide provider network created in Sections 7 and 8 of this Act.*"; and

On page 5, line 22, by deleting "*the Kentucky Access fund*" and inserting "*fund Medicaid coverage for low-income families, the Kentucky Prescription Drug Assistance Program for the elderly, and the statewide provider network*"; and

On page 6, line 2, by deleting "*and access to health insurance for Kentucky residents*"; and

On page 6, line 4, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 7, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

On page 6, line 11, by deleting "*Sections 1 to 16*" and inserting "*Section 1 and Sections 2 to 5*"; and

Beginning on page 6, line 15 and continuing to page 61, line 9, by deleting Sections 3 to 34 in their entirety and inserting the following in lieu thereof:

"SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A statewide provider network shall be created by the Department of Insurance. The statewide provider network may be leased by insurers, self insured employer organized associations, and self-insured plans meeting the department's criteria as specified in Section 8 of this Act.

(2) The department shall operate and administer the statewide provider network.

(3) The statewide provider network shall include various providers from all geographic regions of the state.

(4) The department shall develop provider contracts for the statewide provider network that contain standard terms and conditions for all similarly situated providers, do not discriminate in those terms among similarly situated providers, and include the following:

(a) General terms and conditions of participation, including the requirement to comply with all provisions of this section or any other provision of this chapter specifying terms that are required to be contained in, or are prohibited from being contained in, any agreement between the department and a provider;

(b) Credentialing standards;

(c) Quality standards;

(d) Utilization review standards;

(e) Data management standards;

(f) Claims payment standards in accordance with this chapter;

(g) Internal and external grievance procedures in accordance with this chapter;

(h) A continuity of care provision;

(i) A contract term of twenty-four (24) months, renewable for the same period, with a provision allowing termination for any reason upon ninety (90) days prior written notice; and

(j) Any other provision which the department, acting in conjunction with the Contracts Review Advisory Committee established in subsection (9) of this section, determines is necessary or appropriate.

(5) The department shall be responsible for initial contracting, contract renewal, credentialing and recredentialing for the statewide provider network.

(6) A provider shall have freedom of choice to:

(a) Make application to enroll in the statewide provider network at any time; and

(b) Terminate participation in the statewide provider network in accordance with subsection (4)(i) of this section.

(7) The statewide provider network shall meet the requirements of KRS 304.17A-270. The department shall not charge any application fee or other fee for a provider to participate in the statewide provider network. Any provider willing to enroll and meeting the contract requirements in subsection (4) of this section shall be enrolled in the statewide provider network. In order to become a statewide network participating provider, a provider shall execute and comply with the applicable provisions of the written provider contract.

(8) The department shall establish provider reimbursement rates for the statewide provider network.

(a) Physician services shall be reimbursed as follows:

1. For all enrollees covered by the statewide network, the fees shall be initially established at one hundred thirty-eight percent (138%) of the Medicare Physician Fee Schedule for calendar year 2001. For subsequent years, physician fees for these enrollees shall be the based on the Medicare fee schedule for calendar year 2001 increased by the annual percentage change in the Medicare Economic Index (MEI) for the prior calendar year; and

2. New or revised CPT codes for the year 2002 and thereafter shall be incorporated into the physician fee schedule at the payment level established using the RBRVS formula applicable to the year of their revision or introduction, and annually updated by the percentage change established under the MEI.

(b) Hospital services for enrollees covered by the statewide provider network shall be reimbursed as follows:

1. The inpatient reimbursement rate for acute care hospitals located in an urban area shall be one hundred forty percent (140%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;

2. The inpatient reimbursement rate for acute care hospitals located in a rural area shall be one hundred eighty percent (180%) of each hospital's Medicare prospective payment rate effective January 1, 2001, multiplied by the DRG weight assigned to the diagnosis of the patient utilizing the Medicare DRG weights that are in effect on the date of the patient's discharge;

3. The inpatient reimbursement rate under subparagraphs 1. and 2. of this paragraph shall utilize the Medicare prospective payment rate and includes the operating base rate (adjusted for wage index and case mix), capital base rate, disproportionate share percentage (DSH), and the Direct or Indirect Medical Education Percentage. The rate shall be updated annually for the HCFA Market Basket inflation as published in the Federal Register and effective for the preceding year.

4. Hospitals that are reimbursed under Medicare TEFRA reimbursement methodology shall be reimbursed for inpatient services at one hundred forty percent (140%) of the Medicare per diem rate effective January 1, 2001, for urban hospitals and at one hundred eighty percent (180%) of the Medicare per diem rate effective January 1, 2001 for rural hospitals. That rate shall be updated annually for the HCFA Market Basket inflation factor for psychiatric, rehabilitation and long term care facilities and units as published in the Federal Register and effective for the preceding fiscal year; and

5. Outpatient reimbursement for each hospital shall be at ninety percent (90%) of the amount regularly charged by the participating hospital. Annual increases in an individual hospital's charges shall not exceed the HCFA Market Basket inflation factor as published in the Federal Register and effective for the preceding year for purposes of annually updating reimbursement under this provision. Each hospital that elects to participate in the network shall submit a schedule representing the amounts regularly charged as of January 1 of each year to the department for its review. Material submitted under this section is proprietary and not subject to the requirements of the open records law.

(c) Other services shall be reimbursed at rates established by administrative regulations promulgated by the department.

(9) A Contract Review Advisory Committee is hereby established to begin operations on the effective date of this section, and shall be composed of eight (8) members who shall serve terms of two (2) years. Three (3) members shall be selected by the Kentucky Medical Association from its membership and three (3) members shall be selected by the Kentucky Hospital Association from its membership. The commissioner shall appoint one (1) physician who is not a Kentucky Medical Association member, and one (1) consumer representative. The committee shall provide advice and counsel and make recommendations to the department regarding the development and terms and conditions of the provider contracts that shall be used for the statewide provider network. The committee shall select from its membership a chair who shall serve as chair for one (1) year. The committee shall meet at least quarterly and at any time upon call of the chair. The committee shall be attached to the department for administrative purposes.

(10) A provider contract may be modified based on mutual agreement between the provider and department.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) The General Assembly finds that the health insurance market will become more competitive if a statewide provider network is available to insurers and will result in a competitive marketplace that creates significant efficiencies in which consumers will have the benefit of high quality, cost-effective health care and additional choices of risk-takers and products. Although the criteria set forth in this section may in some circumstances result in certain anticompetitive effects, the General Assembly finds that it has taken the necessary steps to assure that any such anticompetitive acts shall not prevent or impede the formation or operation of other networks or plans or result in payments to providers that exceed competitive levels.

(2) The department may perform any actions that may be necessary and proper to lease the provider network only to the organizations that meet the following criteria, to the satisfaction of the department, including, but not limited to, the following:

(a) The organization has sufficient staff and written policies and procedures for member enrollment, eligibility determination, provider relations, utilization management, quality improvement, drug utilization review, premium billing and collection, data reporting and any other responsibilities requested by the department;

(b) The organization has written policies and procedures to ensure timely and efficient payment of claims, including, but not limited to, the following:

1. Development and provision of a claims billing manual to health care providers participating in the network that includes information relating to the proper billing of a claim, including any required attachments;

2. Payment of all claims in accordance with the provisions of this chapter required of entities issuing health benefit plans; and

3. Notification of an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility for deductible or coinsurance amounts related to a paid claim;

(c) The organization has written policies and procedures to issue denial letters under KRS 304.17A-540 and other applicable law for denial of preauthorization and precertification requests for medical necessity, medical appropriations, and contract coverage determinations;

(d) The organization agrees to submit information to the department under KRS 304.17A-330;

(e) The organization agrees to submit information to the department regarding the applicant's operation and financial condition. The frequency, content, and form of the reports shall be determined by the department;

(f) The organization agrees to be subject to the examination by the department under Subtitles 2 and 3 of this chapter;

(g) The organization agrees to pay an amount equal to one dollar ($1) per enrollee per month to access the provider network;

(h) The organization agrees to maintain at all times during the lease, a net worth that meets or exceeds the risk based capital requirements for the company action level;

(i) The organization agrees to pay the providers in accordance with the providers participating in the network in accordance with Section 7 of this Act;

(j) The organization agrees to abide by the quality improvement policies and procedures agreed to between the participating provider network and the department;

(k) The organization agrees to conduct utilization review activities in accordance with applicable state law and abide by the policies and procedures agreed to between the participating provider network and the department;

(l) The organization agrees to abide by the patient protection provisions set forth in KRS 304.17A-500 to 304.17A-590;

(m) The organization agrees to maintain an internal appeals process and a process for independent external review of adverse determinations in accordance with applicable state law and any written policies and procedures established by the network that are not in conflict with applicable law;

(n) The organization agrees to submit to the department for resolution conflicts with providers participating in the network that cannot be resolved internally and agrees to be bound by the department's determination;

(o) The organization agrees to continue abiding by the terms of the lease agreement after its termination for purposes of assuring continuity of care to members, as required by statute and the specific terms of the lease;

(p) The organization agrees to bear all costs in providing provider network directories to the applicant's members;

(q) The organization agrees to designate a management employee responsible for assuring compliance with the terms of the lease agreement and responsible for the resolution of any issues with either the department or a member of the participating provider network;

(r) If the organization is a self-funded plan not otherwise regulated by the department, it agrees to abide by and be subject to all of the applicable laws and regulations required for insurers issuing health benefit plans;

(s) The organization agrees to any other actions required by the department as may be necessary and proper for the execution of the lease agreement and to achieve the objectives of the legislature as set forth in subsection (1) of this section; and

(t) The organization agrees to abide by the terms and conditions of its contracts with the department and the network.

(3) The criteria set forth in subsection (2) of this section shall be incorporated into an agreement developed by the department for leasing the network. The lessor may cancel the lease agreement by providing the department with at least one hundred eighty (180) days' advance written notice and meeting any other applicable requirements of KRS 304.17A-240.

(4) An insurer that leases the network shall not sublease the network to another person, insurer, or organization or in any way transfer the lease to another entity.

(5) The commissioner may terminate the lease with any insurer in the event the lessor substantially fails to comply with the terms of the lease, if the commissioner gives the insurer written notice of the deficiency and the insurer fails to correct the deficiencies to the satisfaction of the commissioner within sixty (60) days of receipt of the notice.

(6) An insurer that leases the network may utilize another network to provide a health benefit plan product different from that offered through the network.

(7) In no event shall the commissioner lease the network to an entity if the total membership accessing the network exceeds two hundred fifty thousand (250,000) members, excluding members of any self-funded plan offered to employees of the Commonwealth of Kentucky. If there are applicants with membership that in the aggregate exceeds the capacity requirements set forth in this subsection, the commissioner shall accept the applications based upon the order in which the applications were completely filed with the department.

(8) On or before January 1, 2002, and every two years thereafter, the commissioner shall report to the members of the General Assembly his or her findings regarding the economic impact of the leasing of the provider network. The report shall include, but not be limited to, the commissioner's finding of the level of competition existing as of the date of the report compared to the level of competition as of the date of the effective date of this section, any significant efficiencies that have been created as a result of the leasing of the provider network, whether any additional products have been offered to consumers, and whether the leasing of the network has prevented or impeded the formation or operation of other network or plans, or resulted in reimbursement charges paid to providers being charged above competitive levels, to any recommendations for any modifications necessary to achieve or maintain a competitive marketplace. In developing the report, the commissioner shall consider the findings and recommendations of the Health Insurance Advisory Council and any other interested parties.

(9) The commissioner shall not enter into any lease arrangement under which an insurer would lease only a portion of the network.

Section 9. (1) There is appropriated $7,000,000 for the fiscal year 2000-2001 and $7,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to fund the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act.

(2) There is appropriated $10,700,000 for fiscal year 2000-2001 and $14,300,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which together with corresponding federal matching funds shall be used to expand Medicaid coverage to low-income families up to 100% of the federal poverty level. The Cabinet for Health Services shall set the income disregards at levels designed to expend all the funds appropriated for this program, but ensure that the allocations are not exceeded. Every six months after the effective date of this Act, the cabinet shall report to the Interim Joint Committee on Health and Welfare the number of individuals enrolled in Medicaid under Section 1 of this Act, the amount of income disregarded in determining eligibility, the amount of funds that have been expended under Section 1 of this Act, and the number of copayments charged in each category of service.

(3) There is appropriated $1,000,000 for the fiscal year 2000-2001 and $1,000,000 for the fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to establish and adminster the statewide provider network created in Sections 7 and 8 of this Act.

(4) Any unexpended funds appropriated for the Kentucky Prescription Drug Assistance Program created in Sections 2 to 5 of this Act shall be reallocated for the expansion of Medicaid to low-income families according to Section 1 of this Act.

Section 10. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly; and whereas moneys received in the tobacco settlement agreement fund should be disbursed to begin funding important and worthy programs as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 227**, by Representative Crall:

On page 3, lines 2 through 4, by deleting all new language, and by inserting in lieu thereof: "***the reporting method applicable under Section 4 of this Act, and with the relevant data requested by the Centers for Disease Control and Prevention, as specified in Section 4 of this Act***"; and

On page 6, lines 26, by deleting "***person's name***" and by inserting in lieu thereof: "***reporting method applicable under Section 4 of this Act***"; and

On page 7, line 8, by deleting "***under subsection (1) of this section***" and by inserting in lieu thereof: "***by the cabinet***"; and

On page 7, by deleting lines 9 and 10 in their entirety and by substituting in lieu thereof:

"***(a) 1. Use a unique code that consists of any combination of initials, the last four (4) numbers of the Social Security number, birth date, or other information to be determined by the cabinet; or***

2. If the system identified under subparagraph 1. of this paragraph fails to achieve the completeness, timeliness, or accuracy standards established in paragraph (d) of this subsection by July 15, 2003, follow a program designed by the cabinet that implements a system of HIV reporting by use of the name of the person who tested positive for HIV, and that shall comply with the same reporting requirements and standards established by the Centers for Disease Control and Prevention;"; and

On page 7, line 13, by deleting "***names***", and by inserting "***name or unique code, as specified under this subsection,***" in lieu thereof; and

On page 7, by deleting lines 15 through 17 in their entirety, and by inserting the following in lieu thereof:

"***(d) Use reporting methods that match the CDC's standards, as follows:***

1. A completeness rate of at least eighty-five percent (85%);

2. A timeliness rate of at least sixty-six percent (66%) within six (6) months of the date of diagnosis; and

3. An accuracy rate of at least eighty-five percent (85%) of reported cases.

In addition, evaluation studies conducted by the cabinet and subject to review and acceptance by the CDC shall demonstrate that the approach used to conduct surveillance, whether name or unique code, results in accuracy counts with less than five percent (5%) duplication and with less than five percent (5%) incorrectly matched case reports."; and

On page 8, line 18, before "***names***", by inserting "***unique codes or***", and after "***names***", by inserting "***, as specified under subsection (2) of this section,***", and by inserting "***any***" before "***other***", and by inserting "***that may have been***" after "***information***"; and

On page 8, line 21, before "***name***", by inserting "***unique code or***"; and

On page 8, between lines 26 and 27, by inserting the following:

"***(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information through the method established under subsection (2) of this section, and as set forth in an administrative regulation. If reporting is made by unique code, the physician and medical laboratory shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.***"; and

On page 16, line 7, before "***name***", by inserting "***unique code or***"; and

On page 23, line 13, before "***name***", by inserting "***unique code***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 134:	Representative Colter
HB 213:	Representative Colter
HB 267:	Representative Hoffman
HB 850:	Representative Colter

HB 878: Representatives Bather, D. D. Butler, Cherry, Gooch, Yonts

Announcements

The following meetings were announced:

Health and Welfare, March 16, 2000, 1:00 p.m., Room 129

Local Government, March 16, 2000, 8:30 a.m., Room 129

The following meeting was canceled:

Economic Development, March 16, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 16, 2000.

The motion that the House adjourn until 2:00 p.m., March 16, 2000, was adopted by voice vote.

MARCH 16, 2000

FORTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cox and Heleringer.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 15, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 161, by Representative Bratcher: A RESOLUTION relating to the profit-driven advertising campaign of the Benetton company featuring the murderers on the death row of Kentucky and other states.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HR 156**

Education: **SB 42, SB 317, SCR 88**

Health and Welfare: **SB 335, SB 343, HR 158**

Judiciary: **HR 159**

Seniors, Military Affairs and Public Safety: **SB 108**

House Floor: **HR 155, HR 157, HR 160**

Report of Committees

The Committee on Rules reported that **SB 77** and **SB 152** have been posted for passage in the Orders of the Day for March 17, 2000.

Senate Message

Announcing passage of **SB 115, SB 239, SB 305, SB 396, SB 400, HB 50, HB 139, HB 158, HB 556, HB 584, HB 604,** and **HB 621**. (Time: 2:10 p.m.)

Message in regard to **HB 317**: The Senate has passed **HB 317** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Report of Committees (Continued)

The Committee on Local Government reported **SB 72, SB 73, SB 74, SB 101, SB 102, SB 130,** with House Committee Amendment attached thereto, **SB 159,** with House Committee Amendment attached thereto, **SB 160, SB 163, SB 171, SB 217,** and **SB 326** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 72, AN ACT relating to municipal finances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.060 is amended to read as follows:

(1) The executive authority shall designate as the city's official depositories one (1) or more banks, federally insured savings and loan companies or trust companies within the Commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance or ***collateralized in accordance with 12 U.S.C. sec. 1823, to the extent uninsured, by any obligations, including*** surety bonds ***permitted by KRS 41.240(4)***.

(2) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the executive authority which shall state the name of the person to whom funds are payable, the purpose of the payment and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

SB 73, AN ACT relating to municipal budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.020 is amended to read as follows:

(1) Each city shall keep its accounting records and render financial reports in such a way as to:

(a) Determine compliance with statutory provisions; ***and***

(b) Determine fairly and with full disclosure the financial operations of constituent funds and account groups of the city in conformity with generally accepted governmental accounting principles[~~; and~~

~~(c) Readily provide such financial data as may be required by the Federal Revenue Sharing Program~~].

(2) Municipal accounting systems shall be organized and operated on a fund basis.

SB 74, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace only one (1) subject and shall have a title that shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ...."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication to provide for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, a charter county government, and as provided in subsection (7) of this section, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be~~[prepared and]~~ certified by ***the city legislative body***~~[an attorney licensed to practice law in the Commonwealth of Kentucky]~~ and shall include the following:

(a) The title of the ordinance;

(b) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and

(c) The full text of each section that imposes fines, penalties, forfeitures, taxes, or fees.

Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may specify by ordinance additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) At least once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.

(12) The legislative body may adopt municipal orders. Orders shall be in writing and may be adopted only at an official meeting. Orders may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of the ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the General Assembly.

SB 101, AN ACT relating to county budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification shall be submitted to the fiscal court for adoption not later than July 1 of each year~~[or within ten (10) days after receipt of the certified assessment from the Revenue Cabinet, as provided in KRS 133.180, whichever shall be later]~~. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least seven (7) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable; but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

(4) The fiscal court may amend the budget on the basis of the assessment from the Revenue Cabinet. The fiscal court shall finalize the budget within thirty (30) days of the receipt of the certified assessment.

SB 102, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) When an elected public officer is convicted of a felony, a misdemeanor relating to the duties of his office, or a misdemeanor in which the public officer is required to serve a jail sentence of twelve (12) days or more, the situation shall constitute neglect of office. The public officer responsible for paying the elected public officer who has been

convicted shall, upon receiving notice of or learning of the conviction and disability as specified in this subsection shall forthwith cease paying the convicted officer's future salary or fees and shall hold the amounts due in escrow until either:

(a) The convicted officer does not file an appeal within the time limit allowed for an initial appeal of a criminal conviction; or

(b) The convicted officer's conviction is reversed on appeal during the initial round of appeals of the case; or

(c) The convicted officer's conviction is upheld on appeal during the initial round of appeals of the case.

(2) If the situation contemplated by subsection (1)(a) or (c) of this section occurs, the convicted officer's salary shall be forfeited to the unit of government which is the source of the officer's salary or fees and no further salary or fees shall be paid to the convicted officer.

(3) If the situation contemplated by subsection (1)(b) of this section occurs, and the convicted officer's conviction is reversed or voided, the amount of salary held in escrow shall be paid to the officer.

SB 130, AN ACT relating to volunteer fire department aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot ***eight thousand dollars ($8,000)***[~~six thousand five hundred dollars ($6,500)~~] annually to each qualifying department, and beginning on July 1 of ***2001***[~~1999~~], the commission shall allot ***eight thousand two hundred fifty dollars ($8,250)***[~~seven thousand five hundred dollars ($7,500)~~] annually to each qualifying department ***and shall award an amount greater than eight thousand two hundred fifty dollars ($8,250) if sufficient funds are available***. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of

the fund.

The House Committee Amendment No. 1 to **SB 130** is as follows:

On Page 1, Lines 21 to 23 after the word "department" by deleting the following words, "***and shall award an amount greater than eight thousand two hundred fifty dollars ($8,250) if sufficient funds are available***".

SB 159, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350
(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice Cabinet, and the Division of Kentucky State Medical Examiners Office, Justice Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$ ***400***~~[300]~~
(b)	10,001 to 20,000	***500***~~[400]~~
(c)	20,001 to 40,000	***650***~~[550]~~
(d)	40,001 to 60,000	***750***~~[650]~~
(e)	60,001 to 100,000	***850***~~[750]~~
(f)	100,001 to 150,000	***1,100***~~[1,000]~~
(g)	150,001 or more	***1,300***~~[1,200]~~

(2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	$***200***~~[100]~~
(b)	10,001 to 20,000	***250***~~[150]~~
(c)	20,001 to 40,000	***275***~~[175]~~
(d)	40,001 to 60,000	***300***~~[200]~~
(e)	60,001 to 100,000	***400***~~[300]~~
(f)	100,001 to 150,000	***900***~~[800]~~
(g)	150,001 or more	***1,100***~~[1,000]~~

(3) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(4) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

(5) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to fiscal court approval, appoint two (2) deputy coroners, regardless of population.

The House Committee Amendment No. 1 to **SB 159** is as follows:

On page 2, line 16, after "(3)", insert the following language:

"***The fiscal court of any county, urban-county, or charter county government, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars ($300) per month as an expense allowance.***

(4)"; and

On page 2, line 21, at the beginning of the line, insert "***(5)***" and bracket and strikethrough "(4)"; and

On page 2, line 24, at the beginning of the line, insert "***(6)***" and bracket and strikethrough "(5)".

SB 160, AN ACT relating to agreements involving the Department for Local Government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, the Department for Local Government may enter into multiyear contracts, memoranda of agreement, memoranda of understanding, grant agreements, or any other similar documents that exceed the biennium in that they are made for projects that are funded solely through federal grant money.

(2) All documents entered into in accordance with subsection (1) of this section shall contain a provision stating that the contract funding may be discontinued by the General Assembly in a subsequent budget.

SB 163, AN ACT relating to cities and counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ***ordinance***[~~order or resolution~~] impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election

training or work at election booths in state, county, and local primary, regular, or special elections.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(5) On the effective date of this Act, the provisions of subsection (4) of this section notwithstanding, city license fees not credited against county license fees, enacted under this section or KRS 67.083, as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(6) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 2. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute

grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) ***(a)*** Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

Section 3. Whereas the General Assembly finds:

(1) The economic prosperity and overall quality of life of the Commonwealth's citizens are intertwined with and dependent upon the financial stability and well-being of the Commonwealth's cities and counties; and

(2) The cities and counties of the Commonwealth of Kentucky are finding it increasingly difficult to raise the tax revenue necessary to fund expanding service needs, maintain or replace aging infrastructure, and address the many other local problems that place demands on financial resources, and that the cities and counties of the Commonwealth of Kentucky are increasingly involved in conflicts over such issues as service responsibility, tax base allocation, annexation, and land use planning; and

(3) It is clear that the problems confronting the cities and counties of the Commonwealth of Kentucky require the immediate attention of state and local leaders, the Advisory Committee on City and County Relations is hereby established.

Section 4. (1) The Advisory Committee's membership shall include:

(a) Two (2) members of the Senate appointed by the President of the Senate;

(b) Two (2) members of the House of Representatives appointed by the Speaker of the House of Representatives;

(c) The secretary of the Revenue Cabinet, or the secretary's designee;

(d) The commissioner of the Department for Local Government, or the commissioner's designee;

(e) Six (6) city officials appointed by the governing body of the Kentucky League of Cities;

(f) Two (2) county officials appointed by the governing body of the Kentucky Association of Counties;

(g) Two (2) county judge/executives appointed by the governing body of the Kentucky County Judge/Executive Association; and

(h) Two (2) county magistrates appointed by the governing body of the Kentucky County Magistrates Association.

(2) The chair and co-chair shall be appointed by the Legislative Research Commission.

(3) The appointments in paragraphs (e) to (h) of subsection (1) of this section shall be subject to the approval of the Legislative Research Commission.

(4) (a) The Advisory Committee on City and County Relations shall examine the issues and problems facing the Commonwealth's cities and counties. These issues and problems include, but are not limited to:

1. Overlapping, inefficient service delivery;
2. Identification of the principal beneficiaries of local government services;
3. Allocation of taxing authority; and
4. Identification of various city and county tax bases.

(b) The Advisory Committee on City and County Relations may make specific recommendations concerning, but not limited to, the following:

1. Recommendations for allocating future service responsibilities between cities and counties; and
2. Recommendations regarding the allocation of taxing authority between cities and counties, based on assigned service responsibilities.

Section 5. The Advisory Committee on City and County Relations, established under Sections 3 and 4 of this Act, shall report its findings to the Legislative Research Commission no later than August 1, 2001.

Section 6. Provisions of Sections 3 and 4 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in Section 4 of this Act to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 171, AN ACT relating to city revenue bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.537 is amended to read as follows:

The legislative body of any city operating a municipal system for the acquisition and distribution of natural gas[~~ under the authority of KRS 96.170~~] may, by ordinance, authorize the issuance of revenue bonds to pay all or any part of the costs of any project for the improvement or extension of ***the***[~~said~~] system, or for obtaining new sources of supply. ***The***[~~Said~~] revenue bonds may be sold and issued in the manner provided for the sale and issuance of revenue bonds under the provisions of KRS 58.010 to 58.140, ***58.150, 58.155, and 58.180, including by negotiated sale***[~~inclusive~~], or, upon a determination of ***a***[~~said~~] legislative body, acting upon the advice of the city attorney or city solicitor, that the proposed bonds will be industrial development bonds within the meaning of federal statutes, ***the***[~~said~~] revenue bonds, whether or not exempt from federal income taxation, may be sold in any manner provided for the sale of industrial building revenue bonds under the terms of KRS 103.200 to 103.285, inclusive; provided, however, that the contract with the private corporation which is deemed to give rise to the federal classification of industrial development bonds need not take the form of a lease agreement, and no request in writing from any contracting private corporation shall be required for any negotiated sale, and provided, further, that in the event of a negotiated sale, a report of negotiations shall be made to a consultant who shall be employed by the city to make a recommendation to the legislative body on the adequacy of such negotiations and of the terms of sale in the light of market conditions. The provisions of KRS 424.360 shall not apply to any negotiated sale under this section.

SB 217, AN ACT relating to county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.840 is amended to read as follows:

(1) Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, ***tax,*** or fee, prepare a receipt that meets the specifications of the state local finance officer***, if the fine, forfeiture, tax, or fee is paid:***

(a) In cash;

(b) By a party appearing in person to pay; or

(c) By check, credit card, or debit card account received through the mail, if the party includes an addressed, postage-paid return envelope and a request for receipt.

(2) One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, ***tax,*** or fee and one (1) copy shall be retained by the official for his own records. ***One (1) copy of the receipt shall be retained by the official to be placed with the daily bank deposit.***

(3) A county government may, but shall not be required to, accept payment of any fine, forfeiture, tax, or fee by debit or credit card account. If an individual chooses to pay a fine, forfeiture, tax, or fee by debit or credit card account, the county government shall recover the transaction fee charged by the issuer of the account as part of and in addition to the original amount of the fine, forfeiture, tax, or fee.

SB 326, AN ACT relating to court fees and costs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***eighty-two***[~~seventy-five~~] dollars ***($82)***[~~($75)~~], which shall include the fee mandated in KRS 346.185.

(2) Except as provided in KRS 346.185, taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court.

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a) Preparing a certification $1.00

(b) Preparing a copy of a document (per page) $0.15

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay ***twelve***[~~five~~] dollars ***($12)***[~~($5)~~] from each court cost collected pursuant to subsection (1) of this section to the sheriff for ***the payment of bailiffs for court security***[~~use by the sheriff for providing security services and related activities to the court~~] as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 2. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the District Court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law .... ***$49.00***[~~$42.00~~]

(b) For an offense for which prepayment is not permitted or has not been made .... ***$74.00***[~~$67.00~~]

(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in District Court criminal matters as follows:

(a) Preparing an attestation $0.50

(b) Preparing a certification $1.00

(c) Preparing a copy of a document (per page) $0.25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay ***twelve***[~~five~~] dollars ***($12)***[~~($5)~~] from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 3. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate, and the utilization of additional personnel is approved by the Chief Justice, or his designee. In the

event of an emergency of such nature precluding contacting the Chief Justice or his designee, the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day, he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the Chief Judge of the Circuit Court, if the service was to the Circuit Court, or by the Chief Judge of the District Court, if the service was to the District Court.

(6) The sheriff or other law enforcement officer serving a Circuit or District Court shall be compensated at the rate of eight dollars ($8) per hour of service. If service is for a part of an hour, then compensation for such service shall be prorated for the actual number of minutes' service within a given hour.

(7) The sheriff shall receive ***twelve***[~~five~~] dollars ***($12)***[~~($5)~~] from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175, and 24A.180 to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

The Committee on Banking and Insurance reported **SB 195, SB 245,** with House Committee Amendment attached thereto, **SB 279,** with House Committee Substitute attached thereto, **SB 289,** with House Committee Substitute attached thereto, **SB 331,** and **SB 341** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 195, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.38-030 is amended to read as follows:

As used in this subtitle, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of insurance.

(2) "Enrollee" means a person who has been enrolled in a health maintenance organization.

(3) ***"Full service health maintenance organization" means a health maintenance organization that is authorized to provide all health care services.***

(4) "Evidence of coverage" means any certificate, agreement,[~~, or~~] contract***, or other document*** issued to an enrollee stating the health care services to which ***the enrollee***[~~he~~] is entitled. ***All coverages described in an evidence of coverage issued by a health maintenance organization are deemed to be "health benefit plans" to the extent defined in KRS 304.17A-005 unless exempted by the commissioner.***

(5)[~~(4)~~]"Health care services" means any services included in the furnishing to any individual of medical, optometric or dental care, or hospitalization or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services and goods for the purpose of preventing, alleviating, curing, or healing human illness, physical disability or injury.

(6) "Health discount plan" means:

- ***(a) A person who provides, for a fee, a list of participating providers who will give the health discount plan's enrollees a specified discount from the provider's regular fees without recourse to the health discount plan;***
- ***(b) A provider, or provider organization that contracts with individuals or groups to provide a specific, predetermined set of routine services to the individual or group over the term of the contract in exchange for a fixed uniform fee paid by the enrollee without recourse to the health discount plan; or***
- ***(c) A combination of paragraphs (a) and (b) of this subsection.***

(7)[~~(5)~~]"Health maintenance organization" means any person who undertakes to provide, directly or through arrangements with others, health care services to individuals[~~ voluntarily~~] enrolled with such an organization on a per capita or a predetermined, fixed prepayment basis. ***Unless specifically stated, "health maintenance organization" shall include full service health maintenance organization, and single service organization.***

(8)[~~(6)~~]"Person" includes, but is not limited to, any individual, partnership, association, trust, or corporation.

(9)[~~(7)~~]"Provider" means a ***person or group of persons licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or another health profession in a state or licensed to act as a hospital or another health care facility***[~~partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with~~

~~persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a state and a majority of whom are licensed to practice medicine or osteopathy]~~.

(10) "Single service organization" means a health maintenance organization that is authorized to provide only one (1) type of health care service, including dental, mental health, optometry, podiatry, vision, or some other single health service. Single service organizations holding a certificate of authority according to this subtitle shall be subject to the provisions of KRS 304.17A-270, 304.17A-505, 304.17A-525, 304.17A-530, 304.17A-590, and 304.17A-545(4).

Section 2. KRS 304.38-035 is amended to read as follows:

No person shall in this state be, act as, or hold himself out as a health maintenance organization unless he holds a certificate of authority ***as a full service health maintenance organization, or a single service organization*** from the commissioner. ***Health discount plans shall not be required to hold a certificate of authority as a health maintenance organization but shall be required to hold a certificate of filing as defined in Section 8 of this Act.***

Section 3. KRS 304.38-040 is amended to read as follows:

(1) A corporation***, limited liability corporation,*** or partnership may apply to the commissioner for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this subtitle.

(2) Health maintenance organizations which are corporations may be organized by applying the provisions of KRS Chapter 271B, if for profit, and KRS Chapter 273, if for nonstock, nonprofit, to the extent that the same are not inconsistent with the express provisions of this subtitle.

(3) Each application for a certificate of authority shall be submitted to the commissioner upon a form prescribed by him and shall set forth or be accompanied by:

(a) Evidence that the applicant has been issued a certificate of need in accordance with the provisions of KRS Chapter 216B***, or evidence that no certificate of need is required by KRS Chapter 216B***;

(b) Articles of incorporation or partnership agreement in ***quadruplicate***~~[triplicate]~~ originals acknowledged and verified by the applicant, such as the articles of incorporation, articles of association, partnership agreement, or other applicable documents;

(c) The initial bylaws of the organization in triplicate (or any other similar documents);

(d) A statement which shall include describing the health maintenance organization:

1. The ***health services to be offered***~~[proposed method of marketing]~~;

2. The ***financial risks to be assumed***~~[initial geographic area to be served]~~;

3. ***The initial geographic area to be served;***~~[A financial program setting forth a three (3) year projection of such operation; and]~~

4. ***Pro forma financial projections for the first three (3) years of operations including the assumptions the projections are based upon***~~[The sources of working capital and funding]~~;

5. The sources of working capital and funding;

6. A description of the persons to be covered by the health maintenance organization;

7. Any proposed reinsurance arrangements;

8. Any proposed management, administrative, or cost-sharing arrangements; and

9. A description of the health maintenance organization's proposed method of marketing;

(e) The names, addresses, and positions of the initial board of directors, board of trustees, or other governing body responsible for the conduct of the affairs of the applicant;

(f) Any proposed ***evidence of coverage***~~[contracts or agreements]~~ to be issued by the applicant to ***individuals, enrollees, groups, or other contract holders***~~[:~~

~~1. Enrollees; and~~

~~2. Any employers, unions, or any other groups]~~; and

(g) Evidence of financial responsibility as provided in KRS 304.38-060 ***or Section 13 of this Act***.

Section 4. KRS 304.38-060 is amended to read as follows:

Upon receipt of an application for issuance of a certificate of authority, the commissioner shall issue or deny the same. Issuance of a certificate of authority shall be granted only if the commissioner finds that the applicant has complied with KRS 304.38-040, has paid the application fee and the commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the application are competent, trustworthy, and possess good reputations;

(2) The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the commissioner may consider:

(a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the health maintenance organization ***or its inability to meet its financial obligations***;

(d) ***Examples of*** any ***agreements***[~~agreement~~] with providers for the provision of health care services ***by provider type***; and

(e) Compliance with KRS 304.38-070 ***if the applicant is applying for a full service health maintenance organization certificate of authority; or compliance with Section 13 of this Act if the applicant is applying for single service organization certificate of authority***, as a guarantee that the obligations will be duly performed.

Section 5. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 6 -- Assets and Liabilities;

(7) Subtitle 7 -- Investments;

(8) Subtitle 8 -- Administration of Deposits;

(9) ***Subtitle 9 -- Agents, Consultants, Solicitors, and Adjusters;***

(10) Subtitle 12 -- Trade Practices and Frauds;

(11)[~~(10)~~] Subtitle 14 -- ***The Insurance Contract***[~~KRS 304.14-500 to 304.14-560~~];

(12) Subtitle 17 -- Health Insurance Contracts;

(13)[~~(11)~~] Subtitle 17A -- Health Benefit Plans;

(14) Subtitle 18 -- Group and Blanket Health Insurance;

(15) Subtitle 24 -- Domestic Stock and Mutual Insurers;

(16)[~~(12)~~] Subtitle 25 -- Continuity of Management;

(17) Subtitle 26 -- Insider Trading of Equity Securities;

(18)[~~(13)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(19)[~~(14)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(20)[~~(15)~~] Subtitle 99 -- Penalties.

SECTION 6. A NEW SECTION OF SUBTITLE 43 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All prepaid dental plans that are not health discount plans as defined in Section 1 of this Act holding a certificate of authority according to this subtitle shall be deemed to be converted to a single service organization, and upon the next renewal of their certificate of authority shall be issued a certificate of authority to act as a single service organization if they meet the requirements for continuance of their prepaid dental plan certificate of authority. No certificate of authority to act as a prepaid dental plan shall be issued or renewed after July 15, 2000.

(2) A prepaid dental plan holding a certificate of authority immediately prior to July 15, 2000, that is converted to a single service organization according to subsection (1) of this section shall not be required to meet the net worth requirements of Section 13 of this Act until it has accumulated net worth equal to or in excess of the net worth requirement in Section 13 of this Act or July 15, 2003, whichever is earlier. Until the former prepaid dental plan meets the requirements of Section 13 of this Act, it shall maintain at least a net worth equal to its net worth on June 1, 2000, and shall comply with any risk-based capital requirements in administrative regulations promulgated by the commissioner.

(3) All prepaid dental plans that are health discount plans as defined in Section 1 of this Act holding a certificate of authority according to this subtitle shall be deemed to be converted to health discount plans, and upon the next renewal of their certificates of authority shall be issued certificates of filing to act as health discount plans.

SECTION 7. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate of authority issued to a health maintenance organization shall designate the type of services the health maintenance organization is authorized to provide, whether full service, or single service. A certificate of authority issued to a

single service organization shall designate what type of health services the single service organization is authorized to provide.

SECTION 8. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No person shall in this state be, act as, or hold himself out as a health discount plan unless he holds a certificate of filing from the commissioner.

(2) A proposed health discount plan shall file with the commissioner an application for a certificate of filing accompanied by a nonrefundable filing fee of five dollars ($5). Each application for a certificate of filing shall be submitted to the commissioner upon a form prescribed by him and shall set forth or be accompanied by:

  (a) The plan's name, location of its principal office, date of organization, and name and address of each officer and directory;

  (b) A copy of the articles of incorporation, bylaws, or any other organization document of the plan;

  (c) A copy of any evidences of coverage and marketing materials to be used; and

  (d) The address where books and records of the group will be maintained at all times.

(3) Upon receipt of an application for issuance of a certificate of filing, the commissioner shall issue or deny the certificate of filing. Issuance of a certificate of filing shall be granted only if the commissioner finds that the applicant has complied with subsection (2) of this section, has paid the application fee, and the commissioner is satisfied that the health discount plans marketing materials and evidences of coverage comply with Section 9 of this Act.

(4) A certificate of filing shall remain in effect until terminated at the request of the health discount plan or until suspended or revoked by the commissioner according to Section 10 of this Act. The commissioner shall not grant the request of the health discount plan to terminate its certificate of filing unless the plan has filed with the commissioner a statement describing what arrangements have been made to pay obligations of the plan.

SECTION 9. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health discount plan doing business in Kentucky shall include the following language on each of its policies, applications, or claim forms provided to Kentucky residents: "This contract is not an insurance policy and is not protected by the Kentucky Life and Health Guaranty Association."

(2) No health discount plan shall disseminate any advertisement, policy, document, information, statement, or thing that misrepresents or is otherwise misleading in regard to the plan's nature, finances, operation, contracts, coverages, terms, or any other aspect of the plan.

SECTION 10. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke any certificate of filing issued to a health discount plan under this subtitle if he finds that any of the following conditions exist:

  (a) The health discount plan is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under this subtitle, unless amendments to the submissions have been filed with and approved by the commissioner;

  (b) The health discount plan, or any person at its direction, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

  (c) The health discount plan has engaged in any unfair or deceptive practices under its certificate of filing; or

  (d) The health discount plan has failed to correct a violation of this subtitle within a reasonable time period established by the commissioner.

(2) A certificate of filing shall be suspended or revoked only after a hearing according to KRS Chapter 13B.

(3) When a certificate of filing of a health discount plan is suspended, the plan shall not, during the period of suspension, enroll any new participants and shall not engage in any advertising or solicitation.

(4) If the certificate of filing of a health discount plan is revoked, the plan shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation. The commissioner may, by written order, permit further operation of the plan as he may find to be in the best interest of participants, to the end that the participants will be afforded the greatest practical opportunity to obtain coverage elsewhere. If the commissioner permits further operation, the health discount plan shall continue to collect the fee required of participants.

Section 11. KRS 304.38-185 is amended to read as follows:

In his discretion, the commissioner may include health maintenance organizations ***or designated types of health maintenance organizations*** doing business pursuant to this subtitle in coordination of benefits guidelines prescribed pursuant to KRS 304.18-085.

Section 12. KRS 304.38-191 is amended to read as follows:

Any group policy, group plan or group contract issued, delivered or renewed by a health maintenance organization shall include conversion and continuation rights for certificate holders equal to that provided in KRS 304.18-110 subject to the minimum benefits specified in KRS 304.18-120. *This section shall not apply to single service organizations.*

SECTION 13. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In order to qualify for authority to act as a single service organization, a corporation shall have a net worth of at least five hundred thousand dollars ($500,000) when first so authorized. Thereafter, the single service organization shall maintain a net worth of at least one hundred twenty-five thousand dollars ($125,000) and shall comply at all times with the risk-based capital requirements established in administrative regulations promulgated by the commissioner.

Section 14. KRS 304.38-073 is amended to read as follows:

Each *full service* health maintenance organization shall furnish to the commissioner a deposit of cash or securities approved by the commissioner in an amount not less than five hundred thousand dollars ($500,000) so that the obligations to the enrollees shall be performed. *Each single service organization shall furnish to the commissioner a deposit of cash or securities approved by the commissioner, in an amount not less than fifty thousand dollars ($50,000) to ensure that the obligations to the enrollees shall be performed. A health maintenance organization may be required to furnish an additional deposit if the commissioner determines, after a hearing, that an additional deposit is necessary for the protection of the health maintenance organization's enrollees.*

SB 245, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 49 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 22 of this Act, unless the context requires otherwise:

(1) "Affiliated company" means any company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(2) "Captive insurer" means any pure captive insurer, consortium captive insurer, sponsored captive insurer, or industrial insured captive insurer formed or issued a certificate of authority under the provisions of Sections 1 to 22 of this Act. For purposes of Sections 1 to 22 of this Act, a branch captive insurer shall be a pure captive insurer with respect to operations in Kentucky, unless otherwise permitted by the commissioner.

(3) "Consortium" means any legal association of individuals, corporations, partnerships, or associations that has been in continuous existence for at least one (1) year, the member organizations of which collectively, or which does itself:

  (a) Own, control, or hold with power to vote all of the outstanding voting securities of a consortium captive insurer incorporated as a stock insurer; or

  (b) Have complete voting control over a consortium captive insurer incorporated as a mutual insurer; or

  (c) The member organizations of which collectively constitute all of the subscribers of a consortium captive insurer formed as a reciprocal insurer.

(4) "Consortium captive insurer" means any company that insures risks of the member organizations of the consortium and their affiliated companies.

(5) "Excess workers' compensation insurance" means, in the case of an employer that has insured or self-insured its workers' compensation risks in accordance with applicable state or federal law, insurance in excess of a specified perincident or aggregate limit established by the commissioner.

(6) "Industrial insured" means an insured as defined in KRS 304.11-020(1).

(7) "Industrial insured captive insurer" means any company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.

(8) "Industrial insured group" means any group that meets either of the following criteria:

  (a) Any group of industrial insureds that collectively:

    1. Own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurer incorporated as a stock insurer;

    2. Have complete voting control over an industrial insured captive insurer incorporated as a mutual insurer; or

    3. Constitute all of the subscribers of an industrial insured captive insurer formed as a reciprocal insurer; or

  (b) Any group which is created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. § 3901 et seq., as

amended, as a corporation or other limited liability association.

(9) "Member organization" means any individual, corporation, partnership, or association that belongs to a consortium.

(10) "Parent" means a corporation, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent (50%) of the outstanding voting securities of a pure captive insurer.

(11) "Pure captive insurer" means any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.

(12) "Controlled unaffiliated business" means any company:

(a) That is not in the corporate system of a parent and affiliated companies;

(b) That has an existing contractual relationship with a parent or affiliated company; and

(c) Whose risks are managed by a pure captive insurer in accordance with Section 17 of this Act.

(13) "Foreign captive insurer" means any insurer formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of any state other than Kentucky which imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that jurisdiction. Under Sections 1 to 22 of this Act, captive insurers formed under the laws of any jurisdiction other than a state of the United States shall be treated as a foreign captive insurer unless the context requires otherwise.

(14) "Branch business" means any insurance business transacted by a branch captive insurer in Kentucky.

(15) "Branch captive insurer" means any foreign captive insurer issued a certificate of authority by the commissioner to transact the business of insurance in Kentucky through a business unit with a principal place of business in Kentucky.

(16) "Branch operations" means any business operations of a branch captive insurer in Kentucky.

(17) "Participant" means an entity as defined in Section 21 of this Act, and any affiliates thereof, that are insured by a sponsored captive insurer, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

(18) "Participant contract" means a contract by which a sponsored captive insurer insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.

(19) "Protected cell" means a separate account established and maintained by a sponsored captive insurer for one (1) participant.

(20) "Reciprocal insurer" means an insurer engaging in reciprocal insurance as defined by KRS 304.27-010.

(21) "Sponsor" means any entity that meets the requirements of Section 20 of this Act and is approved by the commissioner to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurer.

(22) "Sponsored captive insurer" means any captive insurer:

(a) In which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) That is formed or issued a certificate of authority under the provisions of this subtitle;

(c) That insures the risks of separate participants through contract; and

(d) That segregates each participant's liability through one (1) or more protected cells.

SECTION 2. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any captive insurer, when permitted by its articles of incorporation, charter, or other organizational document, may apply to the commissioner for a certificate of authority to engage in any and all kinds of insurance defined in Subtitle 5 of this chapter; provided, however, that:

(a) No pure captive insurer may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(b) No consortium captive insurer may insure any risks other than those of the member organizations of its consortium, and their affiliated companies;

(c) No industrial insured captive insurer may insure any risks other than those of the industrial insureds that comprise the industrial insured group, and their affiliated companies;

(d) No captive insurer may provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(e) No captive insurer may accept or cede reinsurance except as provided in Section 11 of this Act;

(f) Any captive insurer may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the laws of the state having jurisdiction over the transaction. Any captive insurer may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies;

(g) Any captive insurer which insures risks described in KRS 304.5-020 and KRS 304.5-040 shall comply with all

applicable state laws;

(h) No branch captive insurer may write any business in Kentucky except insurance or reinsurance of the employee benefit business of its parent and affiliated companies which is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended; and

(i) No sponsored captive insurer may insure any risks other than those of its participants.

(2) No captive insurer shall do any insurance business in Kentucky unless:

(a) It first obtains from the commissioner a certificate of authority authorizing it to do insurance business in Kentucky;

(b) Its board of directors, or in the case of a reciprocal insurer, its subscribers' advisory committee, holds at least one meeting each year in Kentucky; and

(c) It maintains its principal place of business in Kentucky, or in the case of a branch captive insurer, maintains the principal place of business for its branch operations in Kentucky.

(3) Before receiving a certificate of authority, a captive insurer formed as a corporation shall file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner;

(4) Before receiving a certificate of authority, a captive insurer formed as a reciprocal insurer shall:

(a) File with the commissioner a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition, and any other statements or documents required by the commissioner; and

(b) Submit to the commissioner a sample of the coverages, deductibles, coverage limits, and rates, together with any additional information required by the commissioner. In the event of any subsequent material change in any item in the samples, the reciprocal captive insurer shall submit to the commissioner for approval an appropriate revision. The reciprocal captive insurer shall not offer any coverage until the forms are approved by the commissioner. The reciprocal captive insurer shall not use any initial rate until it is approved by the commissioner and shall inform the commissioner of any material change in rates within thirty (30) days of the adoption of the change.

(5) In addition to the information required by subsections (3) or (4) of this section, each applicant captive insurer shall file with the commissioner evidence of the following:

(a) The amount and liquidity of its assets relative to the risks to be assumed;

(b) The adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) The overall soundness of its plan of operation;

(d) The adequacy of the loss prevention programs of its parent, member organizations, or industrial insureds as applicable; and

(e) Any other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurer will be able to meet its policy obligations.

(6) In addition to the information required by subsections (3), (4), and (5) of this section, each applicant-sponsored captive insurer shall file with the commissioner the following:

(a) A business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the commissioner and how it will report the experience to the commissioner;

(b) A statement acknowledging that all financial records of the sponsored captive insurer, including records pertaining to any protected cells, shall be made available for inspection or examination by the commissioner;

(c) All contracts or sample contracts between the sponsored captive insurer and any participants; and

(d) Evidence that expenses shall be allocated to each protected cell in a fair and equitable manner.

(7) Information submitted under this section shall be confidential by law and privileged but may be used, received, and shared in accordance with Subtitle 2 of this chapter.

(8) Each captive insurer shall pay to the commissioner a nonrefundable fee as stated in KRS 304.4-010 for examining, investigating, and processing its application for certificate of authority. The commissioner is authorized to retain legal, financial, and examination services from outside the department to assist in examining and investigating the applicant, the reasonable cost of which may be charged against the applicant. In addition, each captive insurer shall pay a certificate of authority fee for the year of registration and a renewal fee for each year thereafter.

SECTION 3. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each captive insurer shall be named in accordance with KRS 304.3-100.

SECTION 4. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No captive insurer shall be issued a certificate of authority unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

(a) In the case of a pure captive insurer, not less than two hundred fifty thousand dollars ($250,000);

(b) In the case of an consortium captive insurer, not less than seven hundred fifty thousand dollars ($750,000);

(c) In the case of an industrial insured captive insurer, not less than five hundred thousand dollars ($500,000); and

(d) In the case of a sponsored captive insurer, not less than one million dollars ($1,000,000).

(2) Notwithstanding the requirements of subsection (1) of this section, no captive insurer organized as a reciprocal insurer under Sections 1 to 22 of this Act shall be issued a certificate of authority unless it shall possess and thereafter maintain free surplus of one million dollars ($1,000,000).

(3) The commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(4) Capital and surplus may be in the form of cash or an irrevocable letter of credit issued by a bank approved by the commissioner and chartered by the Commonwealth of Kentucky or a member bank of the Federal Reserve System.

(5) In the case of a branch captive insurer, as security for the payment of liabilities attributable to the branch operations, the commissioner shall require that a separate trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurer through its branch operations. The amount of this security may be no less than the capital and surplus required in this section and the reserves on the insurance policies or the reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations; provided, however, the commissioner may permit a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in Kentucky or a member bank of the Federal Reserve System.

SECTION 5. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No captive insurer may pay a dividend out of, or other distribution with respect to, capital or surplus, in excess of the limitations set forth in KRS 304.24-320 and KRS 304.24-330, without the prior approval of the commissioner. Approval of an ongoing plan for the payment of dividends or other distributions shall be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the commissioner.

SECTION 6. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A pure captive insurer or a sponsored captive insurer shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders.

(2) A consortium captive insurer or an industrial insured captive insurer may be:

(a) Incorporated as a stock insurer with its capital divided into shares and held by the stockholders; or

(b) Incorporated as a mutual insurer without capital stock, the governing body of which is elected by the member organizations of its consortium; or

(c) Organized as a reciprocal insurer in accordance with Subtitle 27 of this chapter.

(3) A captive insurer incorporated or organized in Kentucky shall have not less than three (3) incorporators or two (2) organizers.

(4) In the case of a captive insurer, the commissioner shall find, in order to issue a certificate of authority, that the establishment and maintenance of the proposed captive insurer will promote the general good of the state. In arriving at such a finding, the commissioner shall consider:

(a) The character, reputation, financial standing, and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, insurance experience, and business qualifications of the persons responsible for the conduct of the captive insurer's affairs; and

(c) Any other aspects the commissioner deems advisable.

(5) The capital stock of a captive insurer incorporated as a stock insurer may be authorized with no par value.

(6) Captive insurance companies formed as corporations under the provisions of Sections 1 to 22 of this Act shall have the privileges and be subject to the provisions of KRS Chapter 271B as well as the applicable provisions contained in Sections 1 to 22 of this Act. If there is a conflict between the provisions of KRS Chapter 271B and the provisions of this chapter, the latter shall control. The provisions of this chapter, pertaining to mergers, consolidations, conversions,

mutualizations and redomestications, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:

(a) The commissioner may, upon request of an insurer party to a merger authorized under this subsection, waive the requirement of KRS 304.24-390(4); and

(b) The commissioner may waive or modify the requirements for public notice and hearing in accordance with rules which the commissioner may adopt addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, then the commissioner may cancel the hearing.

(7) Captive insurance companies formed as reciprocal insurers under the provisions of Sections 1 to 22 of this Act shall have the privileges and be subject to the provisions of Subtitle 27 of this chapter in addition to the applicable provisions of this subtitle. In the event of a conflict between the provisions of Subtitle 27 of this chapter and the provisions of this subtitle, the latter shall control. To the extent a reciprocal insurer is made subject to other provisions of this subtitle pursuant to Subtitle 27 of this chapter, those provisions shall not be applicable to a reciprocal insurer formed under Sections 1 to 22 of this Act unless the provisions are expressly made applicable to captive insurance companies under Sections 1 to 22 of this Act.

(8) In addition to the provisions of subsection (7) of this section, captive insurance companies organized as reciprocal insurers that are industrial insured groups as defined in this subtitle shall have the privileges and be subject to the provisions of Subtitle 45 of this chapter, in addition to the applicable provisions of this subtitle.

(9) The articles of incorporation or bylaws of a captive insurer formed as a corporation may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors.

(10) The subscribers' agreement or other organizing document of a captive insurer formed as a reciprocal insurer may authorize a quorum of a subscribers' advisory committee to consist of no fewer than one-third of the number of its members.

SECTION 7. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Captive insurance companies shall not be required to make any annual report except as provided in Sections 1 to 22 of this Act.

(2) On or before March 1 of each year, each captive insurer shall submit to the commissioner a report of its financial condition, verified by oath of two (2) of its executive officers. Each captive insurer shall report using generally accepted accounting principles, unless the commissioner approves the use of statutory accounting principles, with any useful or necessary modifications or adaptations thereof required or approved or accepted by the commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the commissioner. Except as otherwise provided, each consortium captive insurer and each industrial insured captive insurer insuring the risks of an industrial insured group defined in subsection (8)(b) of Section 1 of this Act shall file its report in the form of and as required by KRS 304.2-205. The commissioner shall by administrative regulation propose the forms in which pure captive insurance companies and industrial insured captive insurance companies insuring the risks of an industrial insured group defined in subsection (8)(a) of Section 1 of this Act shall report.

(3) Any pure captive insurer or an industrial insured captive insurer insuring the risks of industrial insured groups as defined in subsection (8)(a) of Section 1 of this Act may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted, the annual report is due sixty (60) days after the fiscal year-end;

(4) Sixty (60) days after the fiscal year-end, a branch captive insurer shall file with the commissioner a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the foreign captive insurer is formed, verified by oath of two (2) of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurer in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurer, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction.

SECTION 8. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer holding a certificate of authority issued under this subtitle shall be subject to provisions of KRS 304.2-210 to KRS 304.2-300 and provisions of Subtitle 2 of this chapter for determining market conduct and business practices. However, the commissioner upon application, in his discretion, may extend the period between examinations, provided the captive insurer is subject to a comprehensive annual audit during that period, of a scope satisfactory to the commissioner, by independent auditors approved by the commissioner.

(2) The examination for a branch captive insurer shall be of branch business and branch operations only, as long as the branch captive insurer provides annually to the commissioner a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurer is formed, and demonstrates to the commissioner's satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction.

(3) As a condition for issuance of a certificate of authority to a branch captive insurer, the foreign captive insurer shall grant authority to the commissioner for examination of the affairs of the foreign captive insurer in the jurisdiction in which the foreign captive insurer is formed.

SECTION 9. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers holding a certificate of authority issued under this subtitle shall be subject to the provisions of Subtitles 2 and 3 of this chapter to the extent applicable and not in conflict with the expressed provisions of this subtitle.

SECTION 10. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A consortium captive insurer, sponsored captive insurer, and an industrial insured captive insurer insuring the risks of an industrial insured group defined in subsection (8)(b) of Section 1 of this Act shall comply with the investment requirements contained in Subtitle 7 of this chapter. Notwithstanding any other provision of this chapter, the commissioner may approve the use of alternative reliable methods of valuation and rating.

(2) No pure captive insurer or industrial insured captive insurer insuring the risks of an industrial insured group as defined in subsection (8)(a) of Section 1 of this Act shall be subject to any restrictions on allowable investments whatever, including those limitations contained in Subtitle 7 of this chapter; provided, however, that the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of any such company.

(3) Only a pure captive insurer may make loans to its parent company or affiliates. No loans to a parent company or any affiliate shall be permitted without prior written approval of the commissioner and shall be evidenced by a note in a form approved by the commissioner.

(4) All captive insurers are subject to KRS 304.37-030 regarding material transactions.

SECTION 11. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any captive insurer may provide reinsurance, as provided in KRS 304.5-130, KRS 304.5-140, and KRS 304.5-150, on risks ceded by any other insurer.

(2) Any captive insurer may take credit for reserves on risks or portions of risks ceded to reinsurers complying with the provisions of KRS 304.5-140. A captive insurer shall not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with KRS 304.5-140.

(3) For all purposes of Sections 1 to 22 of this Act, insurance by a captive insurer of any workers' compensation qualified self-insured plan of its parent and affiliates shall be deemed to be reinsurance.

SECTION 12. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No captive insurer shall be required to join a rating organization.

SECTION 13. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No captive insurer, including a captive insurer organized as a reciprocal insurer under Sections 1 to 22 of this Act, shall be permitted to join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in Kentucky, nor shall any such captive insurer, or its insured, or its parent or any affiliated company, or any member organization of its consortium, or in the case of a captive insurer organized as a reciprocal insurer, any subscriber thereof, receive any benefit from any such plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurer.

SECTION 14. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may establish and from time to time amend administrative regulations relating to captive insurance companies that are necessary to enable the commissioner to carry out the provisions of Sections 1 to 22 of this Act.

SECTION 15. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No provisions of this chapter, other than those contained in Sections 1 to 22 of this Act or contained in specific references contained in Sections 1 to 22 of this Act, shall apply to captive insurance companies.

SECTION 16. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, the terms and conditions set forth in Subtitle 33 of this chapter, pertaining to insurance supervision, rehabilitation and liquidation, shall apply in full to captive insurance companies formed or issued a certificate of authority under this subtitle.

(2) In the case of a sponsored captive insurer:

(a) The assets of a protected cell may not be used to pay any expenses or claims other than those attributable to the

protected cell; and

(b) Its capital and surplus shall at all times be available to pay any expenses of or claims against the sponsored captive insurer.

(3) Stock or mutual captive insurers may voluntarily dissolve in accordance with KRS 304.24-430.

(4) Reciprocal captive insurers may voluntarily dissolve in accordance with the provisions of Subtitle 27 of this chapter.

SECTION 17. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate administrative regulations establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the pure captive insurer.

SECTION 18. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A consortium captive insurer or industrial insured group formed as a stock or mutual corporation may be converted to or merged with and into a reciprocal insurer in accordance with a plan therefor and the provisions of this section.

(2) Any plan for such conversion or merger shall be fair and equitable to the shareholders, in the case of a stock insurer, or the policyholders, in the case of a mutual insurer.

(3) In the case of a conversion authorized under subsection (1) of this section:

(a) The conversion shall be accomplished under any reasonable plan and procedure approved by the commissioner, but the commissioner shall not approve any plan of conversion unless the plan:

1. Satisfies the provisions of subsection (2) of this section;

2. Provides for a hearing, of which notice has been given to the insurer, its directors, officers, and stockholders, in the case of a stock insurer, or policyholders, in the case of a mutual insurer, all of whom shall have the right to appear at the hearing, except that the commissioner may waive or modify the requirements for the hearing, provided that if a notice of hearing is required, but no hearing is requested, the commissioner may cancel the hearing;

3. Provides for the conversion of existing stockholder or policyholder interests into subscriber interests in the resulting reciprocal insurer, proportionate to stockholder or policyholder interests in the stock or mutual insurer; and

4. Is approved:

a. In the case of a stock insurer, by a majority of the shares entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;

b. In the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;

(b) The commissioner shall approve the plan of conversion if the commissioner finds that the conversion will promote the general good of the state in conformity with those standards set forth in subsection (4) of Section 6 of this Act;

(c) If the commissioner approves the plan, the commissioner shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue an amended certificate of authority to the company's attorney-in-fact;

(d) Upon the issuance of an amended certificate of authority of a reciprocal insurer by the commissioner, the conversion shall be effective; and

(e) Upon the effectiveness of the conversion, the corporate existence of the converting insurer shall cease and the resulting reciprocal insurer shall notify the Secretary of State of the conversion.

(4) A merger authorized under subsection (1) of this section shall be accomplished substantially in accordance with the procedures set forth in KRS 304.24-390, except that, solely for purposes of the merger:

(a) The plan of merger shall satisfy the provisions of subsection (2) of this section;

(b) The subscribers' advisory committee of a reciprocal insurer shall be equivalent to the board of directors of a stock or mutual insurer;

(c) The subscribers of a reciprocal insurer shall be the equivalent of the policyholders of a mutual insurer;

(d) If a subscribers' advisory committee does not have a president or secretary, the officers of the committee having substantially equivalent duties shall be deemed the president or secretary of the committee;

(e) The commissioner may, upon request of an insurer party to a merger authorized under subsection (1) of this section, waive the requirement of KRS 304.24-390(4);

(f) The commissioner shall approve the articles of merger if the commissioner finds that the merger will promote the general good of the state in conformity with those standards set forth in subsection (4) of Section 6 of this Act. If the commissioner approves the articles of merger, the commissioner shall indorse his or her approval thereon and the surviving insurer shall present and file them with the Secretary of State;

(g) Notwithstanding Section 4 of this Act, the commissioner may permit the formation, without surplus, of a captive insurer organized as a reciprocal insurer, into which an existing captive insurer may be merged for the purpose of facilitating a transaction under this section; however, there shall be no more than one (1) authorized insurer surviving the merger; and

(h) An alien insurer may be a party to a merger authorized under subsection (1) of this section, provided, that the requirements for a merger between a domestic and a foreign insurer under KRS 304.24-390 shall apply to a merger between a domestic and an alien insurer under this subsection. The alien insurer shall be treated as a foreign insurer under KRS 304.24-390 and the other jurisdictions shall be the equivalent of a state for purposes of KRS 304.24-390.

SECTION 19. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more sponsors may form a sponsored captive insurer under Sections 1 to 22 of this Act.

(2) A sponsored captive insurer formed or issued a certificate of authority under the provisions of Sections 1 to 22 of this Act may establish and maintain one (1) or more protected cells to insure risks of one (1) or more participants, subject to the following conditions:

(a) The shareholders of a sponsored captive insurer shall be limited to its participants and sponsors;

(b) Each protected cell shall be accounted for separately on the books and records of the sponsored captive insurer to reflect the financial condition and results of operations of the protected cell, net income or loss, dividends, or other distributions to participants, and any other factors provided in the participant contract or required by the commissioner;

(c) The assets of a protected cell shall not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurer may conduct;

(d) No sale, exchange, or other transfer of assets may be made by the sponsored captive insurer between or among any of its protected cells without the consent of the protected cells;

(e) No sale, exchange, transfer of assets, dividend, or distribution may be made from a protected cell to a sponsor or participant without the commissioner's approval and, in no event, shall such approval be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(f) Each sponsored captive insurer shall annually file with the commissioner those financial reports required by the commissioner, which shall include, without limitation, accounting statements detailing the financial experience of each protected cell;

(g) Each sponsored captive insurer shall notify the commissioner, in writing, within ten (10) business days of any protected cell that is insolvent or otherwise unable to meet its claim or expense obligations; and

(h) No participant contract shall take effect without the commissioner's prior written approval, and the addition of each new protected cell and withdrawal of any participant of any existing protected cell shall constitute a change in the business plan requiring the commissioner's prior written approval.

SECTION 20. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A sponsor of a sponsored captive insurer shall be an insurer licensed under the laws of any state, a reinsurer authorized or approved under the laws of any state, or a captive insurer formed or issued a certificate of authority under Sections 1 to 22 of this Act. A risk retention group shall not be either a sponsor or a participant of a sponsored captive insurer.

SECTION 21. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Associations, corporations, limited liability companies, partnerships, trusts and other business entities may be participants in any sponsored captive insurer formed or issued a certificate of authority under Sections 1 to 22 of this Act.

(2) A sponsor may be a participant in a sponsored captive insurer.

(3) A participant need not be a shareholder of the sponsored captive insurer or any affiliate thereof.

(4) A participant shall insure only its own risks through a sponsored captive insurer.

SECTION 22. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every captive insurer holding a certificate of authority under Sections 1 to 22 of this Act shall return to the Revenue Cabinet a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first 20 million dollars ($20,000,000), and three-tenths of one percent (0.3%)on the next 20 million dollars ($20,000,000), and two-tenths of one percent (0.2%) on the next 20 million dollars ($20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(2) Every captive insurer holding a certificate of authority under Sections 1 to 22 of this Act shall return to the Revenue Cabinet a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first 20 million dollars ($20,000,000) of assumed reinsurance premium, and one hundred fifty thousandths of one percent (0.150%) on the next 20 million dollars ($20,000,000), and fifty thousandths of one percent (0.050%) on the next 20 million dollars ($20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.

(3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars ($5,000) in any year, the captive insurer shall pay a tax of five thousand dollars ($5,000) for such year.

(4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.

(5) For the purposes of this section, common ownership and control shall mean:

(a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.

(7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district except as provided in KRS 136.320 (6) and (7).

(8) The Kentucky Revenue Cabinet shall annually distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under Sections 1 to 22 of this Act.

The House Committee Amendment No. 1 to **SB 245** is as follows:

On page 24, after line 5, by adding:

"SECTION 23. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle shall not apply to any foreign captive insurer lawfully transacting the business of insurance in Kentucky prior to the effective date of Sections 1 to 23 of this Act, unless the foreign captive insurer petitions the commissioner requesting that this subtitle be applicable to the foreign captive insurer."; and

On page 1, lines 3 and 10, on page 3, line 11, on page 8, line 20, on page 10, line 27, on page 11, lines 2, 17, and 23, on page 12, line 12, on page 15, lines 13 and 22, on page 16, lines 6 and 10, on page 20, lines 6 and 8, on page 21, lines 18 and 25, on page 22, lines 5 and 19, and on page 24, line 5, by deleting "22" and inserting "*23*".

SB 279, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SUBTITLE 17B OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17, Section 18, and Section 19 of this Act:

(1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;

(2) "Claims payment time frame" means the time period prescribed under Section 2 of this Act following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;

(3) "Clean claim" means a properly completed billing instrument, paper or electronic, that does not involve coordination of benefits for third-party liability, preexisting condition investigations, or subrogation.

  (a) A clean claim from an institutional provider shall consist of:

    1. The UB-92 data set or its successor submitted on the designated paper or electronic formats as adopted by the NUBC;

    2. Entries stated as mandatory by the NUBC; and

    3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service;

  (b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association;

  (c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee; and

  (d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs.

(4) "Commissioner" means the commissioner of the Department of Insurance;

(5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;

(6) "Department" means the Department of Insurance;

(7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;

(9) "Health care provider" or "provider" has the same meaning provided in KRS 304.17A-005 and shall include physical therapists licensed under KRS Chapter 327;

(10) "Health claim attachment" means additional information from a covered person's medical record to the basic claim form required by the insurer;

(11) "Institutional provider" means a health care facility licensed under KRS 216B;

(12) "Insurer" has the same meaning provided in KRS 304.17A-005;

(13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;

(14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.;

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and

(16) "Utilization review" has the same meaning as provided in KRS 211.461.

SECTION 2. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except for claims involving organ transplants, each insurer shall reimburse a provider for a clean claim or send a written or an electronic notice denying or contesting the claim within thirty (30) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the insurer. Clean claims involving organ transplants shall be paid, denied, or contested within sixty (60) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the insurers.

(2) Within the applicable claims payment time frame, an insurer shall:

  (a) Pay the total amount of the claim in accordance with any contract between the insurer and the provider;

  (b) Pay the portion of the claim that is not in dispute and notify the provider, in writing or electronically, the reasons the remaining portion of the claim will not be paid; or

  (c) Notify the provider, in writing or electronically, of the reasons no part of the claim will be paid.

SECTION 3. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Within forty-eight (48) hours of receiving an original or corrected claim submitted electronically, an insurer, its agent, or designee shall acknowledge the date of receipt of the claim by an electronic transmission to the provider, its billing agent, or designee that submitted the claim; and

(b) Within twenty (20) calendar days of receipt of an original or corrected claim submitted by mail or other nonelectronic means, an insurer shall acknowledge the date of receipt of the claim.

1. For claims containing all necessary information and having no errors, the insurer shall make available confirmation of receipt of the claim to the provider, billing agent, or designee that submitted the claim. Acknowledgment may be in writing or the insurer may list the claim and the date it was received on a file that can be accessed electronically by the provider; and

2. Claims that contain errors or lack necessary information shall be acknowledged by an electronic transmission or in writing to the provider, billing agent, or designee that submitted the claim.

(2) An insurer shall notify the provider, in writing or electronically, at the time that receipt of a claim is acknowledged, of all information that is missing or in error which preclude it from being a clean claim.

(3) When an insurer has notified a provider that a claim contains errors, upon receipt of a corrected claim, the insurer shall pay the corrected claim within the applicable claims payment time frame for a clean claim established in Section 2 of this Act.

(4) By January 1, 2001, an insurer shall have in place a mechanism to inform providers of the status of a claim either through:

(a) Notation on the remittance; or

(b) By allowing providers to check claim status electronically at any time following submission of the claim to the insurer.

SECTION 4. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may delay payment by contesting a clean claim only in the following instances:

(a) The insurer has information that another insurer is primarily responsible for the claim;

(b) The insurer will conduct a retrospective review of the services identified on the claim;

(c) The insurer has information that the claim was submitted fraudulently; or

(d) The covered person's or group's premium has not been paid.

(2) An insurer shall pay any uncontested portion of a claim and provide written or electronic notification to the provider of the contested amount within the applicable claims payment time frame established in Section 2 of this Act.

(3) (a) If an insurer routinely requires a provider to submit attachments to the claim containing additional medical information summarizing the diagnosis, the treatment, or services rendered to the covered person before the claim will be paid, the insurer shall identify the specific routinely required information in its provider manual or other document that sets forth the procedure for filing claims with the insurer. The insurer shall provide sixty (60) days' advance written notice of modifications to the provider manual that materially change the type or content of the attachments to be submitted;

(b) If a provider submits a clean claim with the required attachments as specified in the provider manual or other document that sets forth the procedure for filing claims with the insurer, the insurer shall pay or deny the claim within the required claims payment time frame established in Section 2 of this Act; and

(c) If an insurer conducts a retrospective review of a claim and requires an attachment not specified in the provider manual or other document that sets forth the procedure for filing claims, the insurer shall:

1. Notify the provider, in writing or electronically within the claims payment time frame established in Section 2 of this Act, of the service that will be retrospectively reviewed and the specific information needed from the provider regarding the insurer's review of a claim;

2. Complete the retrospective review within twenty (20) business days of the insurer's receipt of the medical information described in this subsection; and

3. Add interest to the amount of the claim to be paid at a rate of twelve percent (12%) per annum, or at a rate in accordance with Section 16 of this Act accruing from the thirty-first day after the claim was received by the insurer through the date upon which the claim is paid.

(4) (a) If a claim or portion thereof is contested by an insurer on the basis that the insurer has not received information reasonably necessary to determine insurer liability for the claim or portion thereof, the insurer shall, within the applicable claims payment time frame established in Section 2 of this Act, provide written or

electronic notice to the provider, covered person, or insurer, as appropriate, with an itemization of all new, never-before-provided information that is needed; and

(b) The insurer shall pay or deny the claims within thirty (30) calendar days of receiving the additional information described in paragraph (a) of this subsection.

SECTION 5. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall not require a provider to appeal errors in payment where the insurer has not paid the claim according to the contracted rate. Miscalculations in payments made by the insurer shall be corrected and paid within thirty (30) calendar days upon the insurer's receipt of documentation from the provider verifying the error.

(2) An insurer shall not be required to correct a payment error to a provider if the provider's request for a payment correction is filed more than twenty-four (24) months after the date that the provider received payment for the claim from the insurer.

(3) (a) Except in cases of fraud, an insurer may only retroactively deny reimbursement to a provider during the twenty-four (24) month period after the date that the insurer paid the claim submitted by the provider;

(b) An insurer that retroactively denies reimbursement to a provider under this section shall give the provider a written or electronic statement specifying the basis for the retroactive denial;

(c) If the retroactive denial of reimbursement results from coordination of benefits, the written statement shall specify the name and address of the entity acknowledging responsibility for payment of the denied claim; and

(d) If an insurer retroactively denies reimbursement for services as a result of coordination of benefits with another insurer, the provider shall have twelve (12) months from the date that the provider received notice of the denial, unless the insurer that retroactively denied reimbursement permits a longer period, to submit a claim for reimbursement for the service to the insurer, the medical assistance program, or the Medicare program responsible for payment.

SECTION 6. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In contracts with providers or in the provider manual or other document that sets forth the procedures for filing claims, an insurer shall disclose to providers:

(a) The mailing or electronic address where claims should be sent for processing;

(b) The phone number a provider may call to have questions and concerns regarding claims addressed;

(c) Any entity to which the insurer has delegated claim payment functions; and

(d) The address of any separate claims processing centers for specific types of services.

(2) An insurer shall provide, no less than thirty (30) calendar days, prior written notice of any changes in the information required in subsection (1) of this section, to its contracted providers.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer determines that payment was made for services rendered to an individual who was not eligible for coverage, or that payment was made for services not covered by a covered person's health benefit plan, the insurer shall give written notice to the provider and:

(1) Request a refund from the provider; or

(2) Make a recoupment of the overpayment from the provider in accordance with Section 8 of this Act.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer chooses to collect an overpayment made to a provider through a recoupment against future provider payments, the insurer shall, within twenty-four (24) months from the date that the insurer paid the claim, give the provider written documentation that specifies:

(1) The amount of the recoupment;

(2) The covered person's name to whom the recoupment applies;

(3) Patient identification number; and

(4) Date of service.

SECTION 9. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer or any other person providing or administering a health benefit plan shall deny or reduce payment for a service, procedure, treatment, drug, or device covered under the covered person's health benefit plan if:

(a) The covered person's provider, during normal business hours, contacts the insurer or the insurer's designee or agent on the day the covered person is expected to be discharged to request review of the covered person's continued hospitalization and the insurer, designee, or agent fails to provide a utilization review decision within twenty-four (24) hours of the request and prior to the time upon which any previous authorization will expire; or

(b) The covered person's provider makes at least three (3) documented attempts during a four (4) consecutive hour period to contact the insurer, designee, or agent during normal business hours to request review of a continued hospital stay; preauthorization of treatment for a covered person who is already hospitalized; retrospective review of an emergency hospital admission where the covered person remains hospitalized at the time the review requested is made; and the insurer, designee, or private review agent fails to be accessible via a toll free telephone line for forty (40) hours per week during normal business hours.

(2) The insurer's liability to pay for the covered person's hospitalization under the circumstances set forth in subsection (1) of this section shall extend until the insurer, designee, or private review agent issues a utilization review decision on a request for review of the matters addressed under subsection (1)(b) of this section.

(3) The insurer's liability to pay under this section shall be conditioned on:

(a) The provider establishing verifiable documentation of the contact with, and subsequent failure of the insurer, designee, or agent to make the utilization review decision as set forth in subsection (1)(a) of this section; or

(b) The provider establishing verifiable documentation of the attempt to make contact with the insurer, designee or agent as addressed in subsection (1)(b) of this section.

(4) In either instance, the contact, or attempts to contact, as set forth in this section, shall be made by the means required by the insurer, designee, or agent for requesting utilization review.

(5) This section applies only when the request for review concerns covered health benefits and it shall not supersede any limitations or exclusions in the covered person's health benefit plan. This section shall not apply if, in requesting a review, the provider does not furnish the information requested by the insurer or agent to make a utilization review decision, or if actions by the provider impede an insurer's or private review agent's ability to issue a utilization review decision.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning on January 1, 2001, upon issuance, delivery, or renewal of a health benefit plan in Kentucky, an insurer shall:

(a) Clearly indicate on each covered person's identification card the mailing address where a claim for payment shall be sent; and

(b) Issue new identification cards or an appropriate sticker to covered persons no later than thirty (30) calendar days following the effective date of any change in the address of the insurer, its agent, designee, or other entity that processes claims for the insurer.

(2) Identification cards for covered persons shall identify whether the covered person has health maintenance organization (HMO), point of service (POS), preferred provider organization (PPO), or indemnity fee for service (FFS) coverage.

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In order to improve the efficiency and effectiveness of the health care system through administrative simplification of billing requirements, the commissioner shall prescribe through the promulgation of administrative regulations, standardized health claim attachments to be used by all insurers requiring additional medical information to process health care claims. The Kentucky State Uniform Billing Committee shall make recommendations to the commissioner on the standardization of attachments.

(2) Any administrative regulations that prescribe standardized health claim attachments shall be updated to conform with federal standards following the release of national requirements for transactions and data elements in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.

SECTION 12. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No later than ninety (90) days following the effective date of this Act, the department shall promulgate administrative regulations requiring all insurers to report information, according to timetables prescribed by the department but no less than annually, on prompt payment of claims that shall include the following:

(a) Percentage of clean claims paid within the claims payment time frame;

(b) Percentage of clean claims paid after the claims payment time frame and the number of days for hospitals,

physicians, and all other providers, excluding pharmacies, within which the claims were finally adjudicated, reporting them in thirty-one (31) to sixty (60) day, sixty-one (61) to ninety (90) day, and more than ninety (90) day intervals; and

(c) Amount of interest paid.

(2) The department shall, as part of the market conduct survey of each insurer, audit the insurer to determine compliance with Sections 1 to 17 and Section 18 of this Act. Findings shall be made available to the public upon request.

(3) The commissioner shall annually present to the Interim Joint Committee on Banking and Insurance and to the Governor, a report on the payment practices of insurers and compliance with the provisions of Sections 1 to 17, Section 18, and Section 19 of this Act and the commissioner's enforcement activities, including the number of complaints received and those acted upon by the department.

SECTION 13. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17, Section 18, and Section 19 of this Act apply to any entity an insurer contracts with to perform claims processing functions.

SECTION 14. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Upon enactment, all health care claims incurred after the effective date of this Act, and contractual agreements between insurers and providers regarding the payment of health care claims entered into after the effective date of this Act, shall conform to Sections 1 to 17, Section 18, and Section 19 of this Act. An insurer shall not request or require a provider to pursue any other course of action regarding the payment of health care claims outside of the provisions set forth in Sections 1 to 17, Section 18, and Section 19 of this Act.

SECTION 15. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A provision identifying the products and markets applicable to any discount as provided in the contract shall be required of all contracts with a:

(a) Provider or an organization of providers; or

(b) Preferred provider organization that has a network of preferred providers and the organization has contracted with the health care preferred provider.

(2) An insurer or entity shall not reimburse on a discounted fee basis unless the disclosure is provided in the contract with:

(a) A provider or organization of providers; or

(b) An organization that has a network of preferred providers and the insurance entity has the written consent of the healthcare preferred providers.

(3) An insurer or entity under contract with the insurer who violates this section commits an unfair claims settlement practice violation under Subtitle 12 of KRS Chapter 304, and is also subject to administrative penalties under Subtitle 99 of KRS Chapter 304.

SECTION 16. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that fails to pay, deny, or settle a clean claim in accordance with Sections 1 to 17, Section 18, and Section 19 of this Act shall pay interest according to the following schedule on the amount of the claim that remains unpaid:

(a) For claims that are paid between thirty-one (31) and sixty (60) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of twelve percent (12%) per annum shall accrue from the date payment was due under Section 2 of this Act;

(b) For claims that are paid between sixty-one (61) days and ninety (90) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of eighteen percent (18%) per annum shall accrue from the date payment was due under Section 2 of this Act; and

(c) For claims that are paid more than ninety (90) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of twenty-one percent (21%) per annum shall accrue from the date that payment was due under Section 2 of this Act.

(2) When paying a claim after the time required by Section 2 of this Act, the insurer shall add the interest payable to the amount of the unpaid claim without the necessity for any claim for that interest to be made by the provider filing the original claim. The interest obligation otherwise imposed by this section shall not apply if the failure to pay, deny, or settle a claim is due to, or results from, in whole or in part, acts or events beyond the control of the insurer, including but not limited to, acts of God, natural disasters, epidemics, strikes or other labor disruptions, war, civil disturbance, riot, or complete or partial disruptions of facilities.

SECTION 17. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty or remedy authorized by law, the department may assess the following fines for noncompliance with Sections 1 to 17, Section 18, and Section 19 of this Act:

(a) A fine of one thousand dollars ($1,000) per day or ten percent (10%) of the unpaid claim amount, whichever is greater, for each day that a clean claim remains unpaid in violation of Sections 1 to 17, Section 18, and Section 19 this Act.

(b) Except for the late payment of claims under subsection (2) of this section, a fine of up to ten thousand dollars ($10,000) where the commissioner determines that an insurer has willfully and knowingly violated Sections 1 to 17, Section 18, and Section 19 of this Act or has a pattern of repeated violations of Sections 1 to 17, Section 18, and Section 19 of this Act.

(2) For purposes of paragraph (a) of subsection (1) of this section, an insurer is in compliance when ninety-five percent (95%) of the clean claims paid during each calendar quarter, excluding pharmaceutical claims, were paid within thirty (30) days and the total dollar amount paid within thirty (30) days, excluding the amount paid for pharmaceutical claims, equaled at least ninety percent (90%) of the total dollar amount paid for clean claims during that calendar quarter.

Section 18. KRS 304.14-135 is amended to read as follows:

(1) The commissioner shall prescribe *the following* uniform health insurance claim forms which shall be used by all insurers transacting health insurance in this state and by all state agencies that require health insurance claim forms for their records *as the sole instrument for reimbursement:*

(a) The uniform health insurance claim form for an institutional provider shall consist of the UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Billing Committee;

(b) The uniform health insurance claim form for a dentist shall consist of a data set and form approved by the American Dental Association;

(c) The uniform health insurance claim form for all other health care providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee; and

(d) A clean claim for pharmacists shall consist of a universal claim form or data set approved by the National Council on Prescription Drug Program.

(2) An insurer shall not require a provider to:

(a) Use a claim form that is different than the uniform claim form for the provider type as set out in subsection (1) of this section;

(b) Modify the uniform claims form or its content; or

(c) Submit additional claims forms.

Section 19. KRS 205.593 is amended to read as follows:

(1) In enrolling an individual or making any payments for benefits to the individual or on the individual's behalf, health insurers are prohibited from taking into account that the individual is eligible for or is provided medical assistance.

(2) Section 1 to 17, Section 18, and Section 19 of this Act apply to any provider partnership, health maintenance organization, or other managed care organization under contract with the Department for Medicaid Services to manage care and process health care claims for services delivered to Medicaid recipients covered under Medicaid managed care.

The House Committee Substitute No. 1 to **SB 279** is as follows:

SB 279, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17, Section 18, and Section 19 of this Act:

(1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;

(2) "Claims payment time frame" means the time period prescribed under Section 2 of this Act following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;

(3) "Clean claim" means a properly completed billing instrument, paper or electronic, that does not involve coordination of benefits for third-party liability, preexisting condition investigations, or subrogation.

(a) A clean claim from an institutional provider shall consist of:

1. The UB-92 data set or its successor submitted on the designated paper or electronic formats as adopted by the NUBC;

2. Entries stated as mandatory by the NUBC; and

3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service;

(b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association;

(c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee; and

(d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs.

(4) "Commissioner" means the commissioner of the Department of Insurance;

(5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;

(6) "Department" means the Department of Insurance;

(7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;

(9) "Health care provider" or "provider" has the same meaning provided in KRS 304.17A-005;

(10) "Health claim attachment" means additional information from a covered person's medical record to the basic claim form required by the insurer;

(11) "Institutional provider" means a health care facility licensed under KRS 216B;

(12) "Insurer" has the same meaning provided in KRS 304.17A-005;

(13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;

(14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.;

(15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and

(16) "Utilization review" has the same meaning as provided in KRS 211.461.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except for claims involving organ transplants, each insurer shall reimburse a provider for a clean claim or send a written or an electronic notice denying or contesting the claim within thirty (30) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the insurer. Clean claims involving organ transplants shall be paid, denied, or contested within sixty (60) calendar days from the date that the claim is received by the insurer or any entity that administers or processes claims on behalf of the insurers.

(2) Within the applicable claims payment time frame, an insurer shall:

(a) Pay the total amount of the claim in accordance with any contract between the insurer and the provider;

(b) Pay the portion of the claim that is not in dispute and notify the provider, in writing or electronically, the reasons the remaining portion of the claim will not be paid; or

(c) Notify the provider, in writing or electronically, of the reasons no part of the claim will be paid.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Within forty-eight (48) hours of receiving an original or corrected claim submitted electronically, an insurer, its agent, or designee shall acknowledge the date of receipt of the claim by an electronic transmission to the provider, its billing agent, or designee that submitted the claim; and

(b) Within twenty (20) calendar days of receipt of an original or corrected claim submitted by mail or other

nonelectronic means, an insurer shall acknowledge the date of receipt of the claim.

1. For claims containing all necessary information and having no errors, the insurer shall make available confirmation of receipt of the claim to the provider, billing agent, or designee that submitted the claim. Acknowledgment may be in writing or the insurer may list the claim and the date it was received on a file that can be accessed electronically by the provider; and

2. Claims that contain errors or lack necessary information shall be acknowledged by an electronic transmission or in writing to the provider, billing agent, or designee that submitted the claim.

(2) An insurer shall notify the provider, in writing or electronically, at the time that receipt of a claim is acknowledged, of all information that is missing or in error which preclude it from being a clean claim.

(3) When an insurer has notified a provider that a claim contains errors, upon receipt of a corrected claim, the insurer shall pay the corrected claim within the applicable claims payment time frame for a clean claim established in Section 2 of this Act.

(4) By January 1, 2001, an insurer shall have in place a mechanism to inform providers of the status of a claim either through:

(a) Notation on the remittance; or

(b) By allowing providers to check claim status electronically at any time following submission of the claim to the insurer.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may delay payment by contesting a clean claim only in the following instances:

(a) The insurer has information that another insurer is primarily responsible for the claim;

(b) The insurer will conduct a retrospective review of the services identified on the claim;

(c) The insurer has information that the claim was submitted fraudulently; or

(d) The covered person's or group's premium has not been paid.

(2) An insurer shall pay any uncontested portion of a claim and provide written or electronic notification to the provider of the contested amount within the applicable claims payment time frame established in Section 2 of this Act.

(3) (a) If an insurer routinely requires a provider to submit attachments to the claim containing additional medical information summarizing the diagnosis, the treatment, or services rendered to the covered person before the claim will be paid, the insurer shall identify the specific routinely required information in its provider manual or other document that sets forth the procedure for filing claims with the insurer. The insurer shall provide sixty (60) days' advance written notice of modifications to the provider manual that materially change the type or content of the attachments to be submitted;

(b) If a provider submits a clean claim with the required attachments as specified in the provider manual or other document that sets forth the procedure for filing claims with the insurer, the insurer shall pay or deny the claim within the required claims payment time frame established in Section 2 of this Act; and

(c) If an insurer conducts a retrospective review of a claim and requires an attachment not specified in the provider manual or other document that sets forth the procedure for filing claims, the insurer shall:

1. Notify the provider, in writing or electronically within the claims payment time frame established in Section 2 of this Act, of the service that will be retrospectively reviewed and the specific information needed from the provider regarding the insurer's review of a claim;

2. Complete the retrospective review within twenty (20) business days of the insurer's receipt of the medical information described in this subsection; and

3. Add interest to the amount of the claim to be paid at a rate of twelve percent (12%) per annum, or at a rate in accordance with Section 16 of this Act accruing from the thirty-first day after the claim was received by the insurer through the date upon which the claim is paid.

(4) (a) If a claim or portion thereof is contested by an insurer on the basis that the insurer has not received information reasonably necessary to determine insurer liability for the claim or portion thereof, the insurer shall, within the applicable claims payment time frame established in Section 2 of this Act, provide written or electronic notice to the provider, covered person, or insurer, as appropriate, with an itemization of all new, never-before-provided information that is needed; and

(b) The insurer shall pay or deny the claims within thirty (30) calendar days of receiving the additional information described in paragraph (a) of this subsection.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall not require a provider to appeal errors in payment where the insurer has not paid the claim according to the contracted rate. Miscalculations in payments made by the insurer shall be corrected and paid within thirty (30) calendar days upon the insurer's receipt of documentation from the provider verifying the error.

(2) An insurer shall not be required to correct a payment error to a provider if the provider's request for a payment correction is filed more than twenty-four (24) months after the date that the provider received payment for the claim from the insurer.

(3) (a) Except in cases of fraud, an insurer may only retroactively deny reimbursement to a provider during the twenty-four (24) month period after the date that the insurer paid the claim submitted by the provider;

(b) An insurer that retroactively denies reimbursement to a provider under this section shall give the provider a written or electronic statement specifying the basis for the retroactive denial;

(c) If the retroactive denial of reimbursement results from coordination of benefits, the written statement shall specify the name and address of the entity acknowledging responsibility for payment of the denied claim; and

(d) If an insurer retroactively denies reimbursement for services as a result of coordination of benefits with another insurer, the provider shall have twelve (12) months from the date that the provider received notice of the denial, unless the insurer that retroactively denied reimbursement permits a longer period, to submit a claim for reimbursement for the service to the insurer, the medical assistance program, or the Medicare program responsible for payment.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In contracts with providers or in the provider manual or other document that sets forth the procedures for filing claims, an insurer shall disclose to providers:

(a) The mailing or electronic address where claims should be sent for processing;

(b) The phone number a provider may call to have questions and concerns regarding claims addressed;

(c) Any entity to which the insurer has delegated claim payment functions; and

(d) The address of any separate claims processing centers for specific types of services.

(2) An insurer shall provide, no less than thirty (30) calendar days, prior written notice of any changes in the information required in subsection (1) of this section, to its contracted providers.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer determines that payment was made for services rendered to an individual who was not eligible for coverage, or that payment was made for services not covered by a covered person's health benefit plan, the insurer shall give written notice to the provider and:

(1) Request a refund from the provider; or

(2) Make a recoupment of the overpayment from the provider in accordance with Section 8 of this Act.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer chooses to collect an overpayment made to a provider through a recoupment against future provider payments, the insurer shall, within twenty-four (24) months from the date that the insurer paid the claim, give the provider written documentation that specifies:

(1) The amount of the recoupment;

(2) The covered person's name to whom the recoupment applies;

(3) Patient identification number; and

(4) Date of service.

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer or any other person providing or administering a health benefit plan shall deny or reduce payment for a service, procedure, treatment, drug, or device covered under the covered person's health benefit plan if:

(a) The covered person's provider, during normal business hours, contacts the insurer or the insurer's designee or agent on the day the covered person is expected to be discharged to request review of the covered person's continued hospitalization and the insurer, designee, or agent fails to provide a utilization review decision within twenty-four (24) hours of the request and prior to the time upon which any previous authorization will expire; or

(b) The covered person's provider makes at least three (3) documented attempts during a four (4) consecutive hour

period to contact the insurer, designee, or agent during normal business hours to request review of a continued hospital stay; preauthorization of treatment for a covered person who is already hospitalized; retrospective review of an emergency hospital admission where the covered person remains hospitalized at the time the review requested is made; and the insurer, designee, or private review agent fails to be accessible via a toll free telephone line for forty (40) hours per week during normal business hours.

(2) The insurer's liability to pay for the covered person's hospitalization under the circumstances set forth in subsection (1) of this section shall extend until the insurer, designee, or private review agent issues a utilization review decision on a request for review of the matters addressed under subsection (1)(b) of this section.

(3) The insurer's liability to pay under this section shall be conditioned on:

(a) The provider establishing verifiable documentation of the contact with, and subsequent failure of the insurer, designee, or agent to make the utilization review decision as set forth in subsection (1)(a) of this section; or

(b) The provider establishing verifiable documentation of the attempt to make contact with the insurer, designee or agent as addressed in subsection (1)(b) of this section.

(4) In either instance, the contact, or attempts to contact, as set forth in this section, shall be made by the means required by the insurer, designee, or agent for requesting utilization review.

(5) This section applies only when the request for review concerns covered health benefits and it shall not supersede any limitations or exclusions in the covered person's health benefit plan. This section shall not apply if, in requesting a review, the provider does not furnish the information requested by the insurer or agent to make a utilization review decision, or if actions by the provider impede an insurer's or private review agent's ability to issue a utilization review decision.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning on January 1, 2001, upon issuance, delivery, or renewal of a health benefit plan in Kentucky, an insurer shall:

(a) Clearly indicate on each covered person's identification card the mailing address where a claim for payment shall be sent; and

(b) Issue new identification cards or an appropriate sticker to covered persons no later than thirty (30) calendar days following the effective date of any change in the address of the insurer, its agent, designee, or other entity that processes claims for the insurer.

(2) Identification cards for covered persons shall identify whether the covered person has health maintenance organization (HMO), point of service (POS), preferred provider organization (PPO), or indemnity fee for service (FFS) coverage.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In order to improve the efficiency and effectiveness of the health care system through administrative simplification of billing requirements, the commissioner shall prescribe through the promulgation of administrative regulations, standardized health claim attachments to be used by all insurers requiring additional medical information to process health care claims. The Kentucky State Uniform Billing Committee shall make recommendations to the commissioner on the standardization of attachments.

(2) Any administrative regulations that prescribe standardized health claim attachments shall be updated to conform with federal standards following the release of national requirements for transactions and data elements in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, sec. 300gg et seq.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No later than ninety (90) days following the effective date of this Act, the department shall promulgate administrative regulations requiring all insurers to report information, according to timetables prescribed by the department but no less than annually, on prompt payment of claims that shall include the following:

(a) Percentage of clean claims paid within the claims payment time frame;

(b) Percentage of clean claims paid after the claims payment time frame and the number of days for hospitals, physicians, and all other providers, excluding pharmacies, within which the claims were finally adjudicated, reporting them in thirty-one (31) to sixty (60) day, sixty-one (61) to ninety (90) day, and more than ninety (90) day intervals; and

(c) Amount of interest paid.

(2) The department shall, as part of the market conduct survey of each insurer, audit the insurer to determine compliance with Sections 1 to 17 and Section 18 of this Act. Findings shall be made available to the public upon request.

(3) The commissioner shall annually present to the Interim Joint Committee on Banking and Insurance and to the Governor, a report on the payment practices of insurers and compliance with the provisions of Sections 1 to 17, Section 18, and Section 19 of this Act and the commissioner's enforcement activities, including the number of complaints received and those acted upon by the department.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17, Section 18, and Section 19 of this Act apply to any entity an insurer contracts with to perform claims processing functions.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Upon enactment, all health care claims incurred after the effective date of this Act, and contractual agreements between insurers and providers regarding the payment of health care claims entered into after the effective date of this Act, shall conform to Sections 1 to 17, Section 18, and Section 19 of this Act. An insurer shall not request or require a provider to pursue any other course of action regarding the payment of health care claims outside of the provisions set forth in Sections 1 to 17, Section 18, and Section 19 of this Act.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A provision identifying the products and markets applicable to any discount as provided in the contract shall be required of all contracts with a:

(a) Provider or an organization of providers; or

(b) Preferred provider organization that has a network of preferred providers and the organization has contracted with the health care preferred provider.

(2) An insurer or entity shall not reimburse on a discounted fee basis unless the disclosure is provided in the contract with:

(a) A provider or organization of providers; or

(b) An organization that has a network of preferred providers and the insurance entity has the written consent of the healthcare preferred providers.

(3) An insurer or entity under contract with the insurer who violates this section commits an unfair claims settlement practice violation under Subtitle 12 of KRS Chapter 304, and is also subject to administrative penalties under Subtitle 99 of KRS Chapter 304.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that fails to pay, deny, or settle a clean claim in accordance with Sections 1 to 17, Section 18, and Section 19 of this Act shall pay interest according to the following schedule on the amount of the claim that remains unpaid:

(a) For claims that are paid between thirty-one (31) and sixty (60) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of twelve percent (12%) per annum shall accrue from the date payment was due under Section 2 of this Act;

(b) For claims that are paid between sixty-one (61) days and ninety (90) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of eighteen percent (18%) per annum shall accrue from the date payment was due under Section 2 of this Act; and

(c) For claims that are paid more than ninety (90) days from the date that the claim was received by the insurer or any entity that administers or processes claims on behalf of the insurer, interest at a rate of twenty-one percent (21%) per annum shall accrue from the date that payment was due under Section 2 of this Act.

(2) When paying a claim after the time required by Section 2 of this Act, the insurer shall add the interest payable to the amount of the unpaid claim without the necessity for any claim for that interest to be made by the provider filing the original claim. The interest obligation otherwise imposed by this section shall not apply if the failure to pay, deny, or settle a claim is due to, or results from, in whole or in part, acts or events beyond the control of the insurer, including but not limited to, acts of God, natural disasters, epidemics, strikes or other labor disruptions, war, civil disturbance, riot, or complete or partial disruptions of facilities.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty or remedy authorized by law, the department may assess the following fines for noncompliance with Sections 1 to 17, Section 18, and Section 19 of this Act:

(a) A fine of one thousand dollars ($1,000) per day or ten percent (10%) of the unpaid claim amount, whichever is greater, for each day that a clean claim remains unpaid in violation of Sections 1 to 17, Section 18, and Section

19 of this Act.

(b) Except for the late payment of claims under subsection (2) of this section, a fine of up to ten thousand dollars ($10,000) where the commissioner determines that an insurer has willfully and knowingly violated Sections 1 to 17, Section 18, and Section 19 of this Act or has a pattern of repeated violations of Sections 1 to 17, Section 18, and Section 19 of this Act.

(2) For purposes of paragraph (a) of subsection (1) of this section, an insurer is in compliance when ninety-five percent (95%) of the clean claims paid during each calendar quarter, excluding pharmaceutical claims, were paid within thirty (30) days and the total dollar amount paid within thirty (30) days, excluding the amount paid for pharmaceutical claims, equaled at least ninety percent (90%) of the total dollar amount paid for clean claims during that calendar quarter.

Section 18. KRS 304.14-135 is amended to read as follows:

(1) The commissioner shall prescribe *the following* uniform health insurance claim forms which shall be used by all insurers transacting health insurance in this state and by all state agencies that require health insurance claim forms for their records *as the sole instrument for reimbursement:*

(a) The uniform health insurance claim form for an institutional provider shall consist of the UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Billing Committee;

(b) The uniform health insurance claim form for a dentist shall consist of a data set and form approved by the American Dental Association;

(c) The uniform health insurance claim form for all other health care providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee; and

(d) A clean claim for pharmacists shall consist of a universal claim form or data set approved by the National Council on Prescription Drug Program.

(2) An insurer shall not require a provider to:

(a) Use a claim form that is different than the uniform claim form for the provider type as set out in subsection (1) of this section;

(b) Modify the uniform claims form or its content; or

(c) Submit additional claims forms.

Section 19. KRS 205.593 is amended to read as follows:

(1) In enrolling an individual or making any payments for benefits to the individual or on the individual's behalf, health insurers are prohibited from taking into account that the individual is eligible for or is provided medical assistance.

(2) Sections 1 to 17, Section 18, and Section 19 of this Act apply to any provider partnership, health maintenance organization, or other managed care organization under contract with the Department for Medicaid Services to manage care and process health care claims for services delivered to Medicaid recipients covered under Medicaid managed care.

SB 289, AN ACT relating to alien insurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 50 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Alien insurer" means an insurer as defined in KRS 304.1-070(3);

(2) "United States branch" or "U.S. branch" means the business unit through which business is transacted within the United States by an alien insurer and the assets and liabilities of the insurer within the United States pertaining to that business.

SECTION 2. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle applies to a U.S. branch using Kentucky as a port of entry to transact insurance in the United States. The U.S. branch shall also be subject to all state laws applicable to an insurer domiciled in Kentucky unless otherwise provided. This subtitle does not apply to Lloyd's Plan insurers as defined in KRS 304.3-040 licensed in accordance with Subtitle 28 of KRS Chapter 304, unless the Lloyd's Plan insurer petitions the commissioner requesting that this subtitle be applicable to the Lloyd's Plan insurer.

SECTION 3. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An alien insurer may use Kentucky as a port of entry to transact insurance in the United States through a U.S. branch by:

(a) Qualifying as an insurer authorized to do business in Kentucky; and

(b) Establishing a trust account, under a trust agreement approved by the commissioner with a U.S. bank approved by the commissioner, in an amount at least equal to the minimum capital and surplus or authorized control level risk-based capital, whichever is greater, required to be maintained by a domestic insurer authorized to do the same kind of insurance.

(2) Before authorizing the entry through Kentucky of a U.S. branch of any alien insurer, the commissioner shall require the alien insurer, in addition to the requirements of Section 5 of this Act and any other requirement of this chapter:

(a) To submit a copy of its charter and bylaws, if any, currently in force, and all other documents necessary to show the kinds of business which it is empowered to do in its domiciliary jurisdiction, attested to as accurate and complete by the insurance supervisory official in its home jurisdiction, and a full statement, subscribed and affirmed as true under the penalties of perjury by two (2) officers or equivalent responsible representatives in the manner as the commissioner shall prescribe, of its financial conditions as of the close of its latest fiscal year, showing its assets, liabilities, income disbursements, business transacted and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its home jurisdiction; an English language translation, as necessary, of any of the documents required in this paragraph; and

(b) To submit to an examination of the insurer's affairs at its principal office within the United States. However, the commissioner may instead accept a report of the insurance supervisory official of the insurer's home jurisdiction.

SECTION 4. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The assets in the trust account shall be known as "trusteed assets" and shall at all times be in an amount equal to the U.S. branch's reserves and other liabilities plus the minimum capital and surplus or authorized control level risk-based capital, whichever is greater, required to be maintained by a domestic insurer authorized to do the same kind of insurance.

SECTION 5. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The deed of trust and all amendments thereto shall be authenticated in the form and manner the commissioner prescribes and shall not be effective unless approved by the commissioner upon a finding that:

(a) A deed of trust or its amendments are sufficient in form and in conformity with law;

(b) The trustee or trustees are eligible to serve; and

(c) The deed of trust is adequate to protect the interests of the beneficiaries of the trust.

(2) If at any time the commissioner finds, after reasonable notice and hearing, that the requisites for the approval no longer exist, the commissioner may withdraw approval.

(3) The commissioner may, from time to time, approve modifications of, or variations in, any deed of trust, which in the commissioner's judgment are not prejudicial to the interests of the people of Kentucky or the United States policyholders and creditors of the U.S. branch.

(4) The deed of trust shall contain provisions which:

(a) Vest legal title to trusteed assets in the trustees, and their lawfully appointed successors;

(b) Require that all assets deposited in the trust shall be continuously kept within the United States;

(c) Provide for substitution of a new trustee or trustees in case of a vacancy by death, resignation, or otherwise, subject to the approval of the commissioner;

(d) Require that the trustee or trustees shall continuously maintain a record at all times sufficient to identify the assets of the fund;

(e) Require that the trusteed assets shall consist of cash and investments eligible for investment of the funds of domestic insurers and accrued interest thereon if collectable by the trustee;

(f) Require that the trust shall be for the exclusive benefit, security, and protection of the policyholders, or policyholders and creditors, of the U.S. branch in the United States and that it shall be maintained as long as there is outstanding any liability of the alien insurer arising out of its insurance transactions in the United States; and

(g) Provide, in substance, that no withdrawals of assets, other than income as specified in subsection (5) of this section shall be made or permitted by the trustee or trustees without the approval of the commissioner except to:

1. Make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors, of the U.S. branch in the United States;

2. Substitute other assets permitted by law and at least equal in value and quality to those withdrawn, upon the specific written direction of the United States manager when duly empowered and acting according *to either general or specific written authority previously given or delegated by the board of directors; or*

3. Transfer the assets to an official liquidator or rehabilitator according to an order of a court of competent jurisdiction.

(5) The deed of trust may provide that income, earnings, dividends, or interest accumulations of the assets of the fund may be paid over to the United States manager of the U.S. branch upon request, provided that the total trusteed assets shall not thereby be less than the amount required to be maintained under Section 4 of this Act.

(6) Upon withdrawal of trusteed assets deposited in another state in which the insurer is authorized to do business, it shall be sufficient if the deed of trust requires similar written approval of the insurance supervising official of that state in lieu of approval of the commissioner, provided that the total trusteed assets shall not thereby be less than the amount required to be maintained under Section 4 of this Act. In all cases, the U.S. branch shall notify the commissioner in writing of the nature and extent of the withdrawal.

(7) The commissioner may from time to time:

(a) Make examinations of the trusteed assets of any authorized U.S. branch at the insurer's expense; and

(b) Require the trustee or trustees to file a statement, in the form the commissioner prescribes, certifying the assets of the trust fund and the amounts thereof.

(8) Refusal or neglect of any trustee to comply with the foregoing requirements shall be grounds for the revocation of the insurer's certificate of authority or the liquidation of its United States branch.

SECTION 6. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to other requirements of this subtitle, every authorized U.S. branch shall, not later than the first day of March in each year and forty-five (45) days after the end of the first three (3) calendar year quarters, file with the commissioner and with the National Association of Insurance Commissioners:

(a) Annual and quarterly statements of the business transacted within the United States and the assets held by or for it within the United States for the protection of policyholders and creditors within the United States, and of the liabilities incurred against these assets. The forms shall not contain any statement in regard to its assets and business elsewhere. The statements shall be in the same format required of an insurer domiciled in the U.S. branch's state of entry state and authorized to write the same kinds of insurance; and

(b) A statement of trusteed surplus, in the form the commissioner prescribes, as of the end of the same period covered by the statement filed under this subsection. The aggregate value of the insurer's general state deposits and trusteed assets deposited with a trustee in compliance with Section 5 of this Act, plus accrued investment income thereon where the interest is collected by the states for trustees, less the aggregate net amount of all of its reserves and other liabilities in the United States as determined in accordance with this section shall be known as its "trusteed surplus" in the United States. In determining the net amount of the U.S. branch's liabilities in the United States to be reported in the statement of trusteed surplus, the U.S. branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statement as follows:

1. Add back liabilities used to offset admitted assets reported in the accompanying quarterly or annual statement; and

2. Deduct:

a. Unearned premiums on agent's balances or uncollected premiums not more than ninety (90) days past due;

b. Reinsurance on losses with authorized insurers, less unpaid reinsurance premiums;

c. Reinsurance recoverables on paid losses from unauthorized insurers that are included as an asset in the annual statement, but only to the extent a liability for such unauthorized recoverables is included in the liabilities report in the trusteed surplus statement;

d. Special state deposits held for the exclusive benefit for policyholders, or policyholders and creditors, of any particular state not exceeding net liabilities reports for that state;

e. Secured accrued retrospective premiums;

f. If a life insurer, the amount of its policy loans to policyholders within the United States not exceeding the amount of legal reserve required on each policy, and the net amount of uncollected and deferred premiums; and

g. Any other nontrusteed asset which the commissioner determines secures liabilities in a substantially similar manner; and

(c) Any additional information that the commissioner may require relating to the total business or assets, or any portion thereof, of the alien insurer.

(2) The annual statement and trusteed surplus statement shall be signed and verified by the United States manager, attorney-in-fact, or a duly empowered assistant United States manager, of the U.S. branch. The items of securities and

other property held under trust deeds shall be certified in the trusteed surplus statement by the United States trustee or trustees.

(3) Every report on examination of a U.S. branch shall include a trusteed surplus statement as of the date of examination in addition to the general statement of the financial condition of the U.S. branch.

SECTION 7. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Before issuing any new or renewal certificate of authority to any U.S. branch, the commissioner may require satisfactory proof, either in the alien insurer's charter or by an agreement evidenced by a duly certified resolution of its board of directors, or otherwise as the commissioner may require, that the insurer will not engage in any insurance business in contravention of the provisions of this section or not authorized by its charter.

(2) The commissioner shall issue a renewal certificate of authority to any U.S. branch if satisfied, by all proof as required, that the insurer is not delinquent with respect to any requirement imposed by this subtitle and that its continuance in business in Kentucky will not be hazardous or prejudicial to the best interests of the people of Kentucky.

(3) No U.S. branch shall be authorized to do in Kentucky any kind of insurance business, or any combination of kinds of insurance business, which are not permitted to be done by domestic insurers authorized under the provisions of this chapter.

(4) Except as otherwise specifically provided, no U.S. branch, entering through Kentucky or another state, shall be or continue to be authorized to do an insurance business in Kentucky if it fails to comply substantially with any requirement or limitation of this subtitle, applicable to similar domestic insurers hereafter organized, which in the judgment of the commissioner is reasonably necessary to protect the interests of the policyholders.

(5) No U.S. branch which does outside of Kentucky any kind or combination of kinds of insurance business not permitted to be done in Kentucky by similar domestic insurers hereafter organized, shall be or continue to be authorized to do an insurance business in Kentucky, unless in the judgment of the commissioner the doing of this kind or combination of kinds of insurance business will not be prejudicial to the best interests of the people of Kentucky.

(6) No U.S. branch shall be or continue to be authorized to do an insurance business in Kentucky if it fails to keep full and correct entries of transactions, which shall at all times be open to the inspection of persons invested by law with the rights of inspection and be maintained in its principal office within Kentucky.

SECTION 8. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Whenever it appears to the commissioner from any annual or quarterly statement, trusteed surplus statement, or any other report, that a U.S. branch's trusteed surplus is reduced below minimum capital and surplus or the authorized control level risk-based capital, whichever is greater, that are required to be maintained by a domestic insurer authorized to transact the same kinds of insurance, the commissioner may proceed against the insurer under Subtitle 33 of this chapter as an insurer whose condition is such that its further transaction of business in the United States will be hazardous to its policyholders, its creditors, or the public in the United States.

The House Committee Substitute No. 1 to **SB 289** is as follows:

SB 289, AN ACT relating to alien insurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 50 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Alien insurer" means an insurer as defined in KRS 304.1-070(3);

(2) "United States branch" or "U.S. branch" means the business unit through which business is transacted within the United States by an alien insurer and the assets and liabilities of the insurer within the United States pertaining to that business.

SECTION 2. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle applies to a U.S. branch using Kentucky as a port of entry to transact insurance in the United States. The U.S. branch shall also be subject to all state laws applicable to an insurer domiciled in Kentucky unless otherwise provided. This subtitle shall not apply to any alien insurer lawfully transacting the business of insurance in Kentucky prior to the effective date of Sections 1 to 8 of this Act, unless the alien insurer petitions the commissioner requesting that this subtitle be applicable to the alien insurer.

SECTION 3. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An alien insurer may use Kentucky as a port of entry to transact insurance in the United States through a U.S. branch by:

(a) Qualifying as an insurer authorized to do business in Kentucky; and

(b) Establishing a trust account, under a trust agreement approved by the commissioner with a U.S. bank approved by the commissioner, in an amount at least equal to the minimum capital and surplus or authorized control level risk-based capital, whichever is greater, required to be maintained by a domestic insurer authorized to do the same kind of insurance.

(2) Before authorizing the entry through Kentucky of a U.S. branch of any alien insurer, the commissioner shall require the alien insurer, in addition to the requirements of Section 5 of this Act and any other requirement of this chapter:

(a) To submit a copy of its charter and bylaws, if any, currently in force, and all other documents necessary to show the kinds of business which it is empowered to do in its domiciliary jurisdiction, attested to as accurate and complete by the insurance supervisory official in its home jurisdiction, and a full statement, subscribed and affirmed as true under the penalties of perjury by two (2) officers or equivalent responsible representatives in the manner as the commissioner shall prescribe, of its financial conditions as of the close of its latest fiscal year, showing its assets, liabilities, income disbursements, business transacted and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its home jurisdiction; an English language translation, as necessary, of any of the documents required in this paragraph; and

(b) To submit to an examination of the insurer's affairs at its principal office within the United States. However, the commissioner may instead accept a report of the insurance supervisory official of the insurer's home jurisdiction.

SECTION 4. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The assets in the trust account shall be known as "trusteed assets" and shall at all times be in an amount equal to the U.S. branch's reserves and other liabilities plus the minimum capital and surplus or authorized control level risk-based capital, whichever is greater, required to be maintained by a domestic insurer authorized to do the same kind of insurance.

SECTION 5. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The deed of trust and all amendments thereto shall be authenticated in the form and manner the commissioner prescribes and shall not be effective unless approved by the commissioner upon a finding that:

(a) A deed of trust or its amendments are sufficient in form and in conformity with law;

(b) The trustee or trustees are eligible to serve; and

(c) The deed of trust is adequate to protect the interests of the beneficiaries of the trust.

(2) If at any time the commissioner finds, after reasonable notice and hearing, that the requisites for the approval no longer exist, the commissioner may withdraw approval.

(3) The commissioner may, from time to time, approve modifications of, or variations in, any deed of trust, which in the commissioner's judgment are not prejudicial to the interests of the people of Kentucky or the United States policyholders and creditors of the U.S. branch.

(4) The deed of trust shall contain provisions which:

(a) Vest legal title to trusteed assets in the trustees, and their lawfully appointed successors;

(b) Require that all assets deposited in the trust shall be continuously kept within the United States;

(c) Provide for substitution of a new trustee or trustees in case of a vacancy by death, resignation, or otherwise, subject to the approval of the commissioner;

(d) Require that the trustee or trustees shall continuously maintain a record at all times sufficient to identify the assets of the fund;

(e) Require that the trusteed assets shall consist of cash and investments eligible for investment of the funds of domestic insurers and accrued interest thereon if collectable by the trustee;

(f) Require that the trust shall be for the exclusive benefit, security, and protection of the policyholders, or policyholders and creditors, of the U.S. branch in the United States and that it shall be maintained as long as there is outstanding any liability of the alien insurer arising out of its insurance transactions in the United States; and

(g) Provide, in substance, that no withdrawals of assets, other than income as specified in subsection (5) of this section shall be made or permitted by the trustee or trustees without the approval of the commissioner except to:

1. Make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors, of the U.S. branch in the United States;

2. Substitute other assets permitted by law and at least equal in value and quality to those withdrawn, upon the specific written direction of the United States manager when duly empowered and acting according to either general or specific written authority previously given or delegated by the board of directors; or

3. Transfer the assets to an official liquidator or rehabilitator according to an order of a court of competent jurisdiction.

(5) The deed of trust may provide that income, earnings, dividends, or interest accumulations of the assets of the fund may be paid over to the United States manager of the U.S. branch upon request, provided that the total trusteed assets shall not thereby be less than the amount required to be maintained under Section 4 of this Act.

(6) Upon withdrawal of trusteed assets deposited in another state in which the insurer is authorized to do business, it shall be sufficient if the deed of trust requires similar written approval of the insurance supervising official of that state in lieu of approval of the commissioner, provided that the total trusteed assets shall not thereby be less than the amount required to be maintained under Section 4 of this Act. In all cases, the U.S. branch shall notify the commissioner in writing of the nature and extent of the withdrawal.

(7) The commissioner may from time to time:

- *(a) Make examinations of the trusteed assets of any authorized U.S. branch at the insurer's expense; and*
- *(b) Require the trustee or trustees to file a statement, in the form the commissioner prescribes, certifying the assets of the trust fund and the amounts thereof.*

(8) Refusal or neglect of any trustee to comply with the foregoing requirements shall be grounds for the revocation of the insurer's certificate of authority or the liquidation of its United States branch.

SECTION 6. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to other requirements of this subtitle, every authorized U.S. branch shall, not later than the first day of March in each year and forty-five (45) days after the end of the first three (3) calendar year quarters, file with the commissioner and with the National Association of Insurance Commissioners:

- *(a) Annual and quarterly statements of the business transacted within the United States and the assets held by or for it within the United States for the protection of policyholders and creditors within the United States, and of the liabilities incurred against these assets. The forms shall not contain any statement in regard to its assets and business elsewhere. The statements shall be in the same format required of an insurer domiciled in the U.S. branch's state of entry state and authorized to write the same kinds of insurance; and*
- *(b) A statement of trusteed surplus, in the form the commissioner prescribes, as of the end of the same period covered by the statement filed under this subsection. The aggregate value of the insurer's general state deposits and trusteed assets deposited with a trustee in compliance with Section 5 of this Act, plus accrued investment income thereon where the interest is collected by the states for trustees, less the aggregate net amount of all of its reserves and other liabilities in the United States as determined in accordance with this section shall be known as its "trusteed surplus" in the United States. In determining the net amount of the U.S. branch's liabilities in the United States to be reported in the statement of trusteed surplus, the U.S. branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statement as follows:*
  - *1. Add back liabilities used to offset admitted assets reported in the accompanying quarterly or annual statement; and*
  - *2. Deduct:*
    - *a. Unearned premiums on agent's balances or uncollected premiums not more than ninety (90) days past due;*
    - *b. Reinsurance on losses with authorized insurers, less unpaid reinsurance premiums;*
    - *c. Reinsurance recoverables on paid losses from unauthorized insurers that are included as an asset in the annual statement, but only to the extent a liability for such unauthorized recoverables is included in the liabilities report in the trusteed surplus statement;*
    - *d. Special state deposits held for the exclusive benefit for policyholders, or policyholders and creditors, of any particular state not exceeding net liabilities reports for that state;*
    - *e. Secured accrued retrospective premiums;*
    - *f. If a life insurer, the amount of its policy loans to policyholders within the United States not exceeding the amount of legal reserve required on each policy, and the net amount of uncollected and deferred premiums; and*
    - *g. Any other nontrusteed asset which the commissioner determines secures liabilities in a substantially similar manner; and*
- *(c) Any additional information that the commissioner may require relating to the total business or assets, or any portion thereof, of the alien insurer.*

(2) The annual statement and trusteed surplus statement shall be signed and verified by the United States manager, attorney-in-fact, or a duly empowered assistant United States manager, of the U.S. branch. The items of securities and other property held under trust deeds shall be certified in the trusteed surplus statement by the United States trustee or trustees.

(3) Every report on examination of a U.S. branch shall include a trusteed surplus statement as of the date of examination

in addition to the general statement of the financial condition of the U.S. branch.

SECTION 7. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Before issuing any new or renewal certificate of authority to any U.S. branch, the commissioner may require satisfactory proof, either in the alien insurer's charter or by an agreement evidenced by a duly certified resolution of its board of directors, or otherwise as the commissioner may require, that the insurer will not engage in any insurance business in contravention of the provisions of this section or not authorized by its charter.

(2) The commissioner shall issue a renewal certificate of authority to any U.S. branch if satisfied, by all proof as required, that the insurer is not delinquent with respect to any requirement imposed by this subtitle and that its continuance in business in Kentucky will not be hazardous or prejudicial to the best interests of the people of Kentucky.

(3) No U.S. branch shall be authorized to do in Kentucky any kind of insurance business, or any combination of kinds of insurance business, which are not permitted to be done by domestic insurers authorized under the provisions of this chapter.

(4) Except as otherwise specifically provided, no U.S. branch, entering through Kentucky or another state, shall be or continue to be authorized to do an insurance business in Kentucky if it fails to comply substantially with any requirement or limitation of this subtitle, applicable to similar domestic insurers hereafter organized, which in the judgment of the commissioner is reasonably necessary to protect the interests of the policyholders.

(5) No U.S. branch which does outside of Kentucky any kind or combination of kinds of insurance business not permitted to be done in Kentucky by similar domestic insurers hereafter organized, shall be or continue to be authorized to do an insurance business in Kentucky, unless in the judgment of the commissioner the doing of this kind or combination of kinds of insurance business will not be prejudicial to the best interests of the people of Kentucky.

(6) No U.S. branch shall be or continue to be authorized to do an insurance business in Kentucky if it fails to keep full and correct entries of transactions, which shall at all times be open to the inspection of persons invested by law with the rights of inspection and be maintained in its principal office within Kentucky.

SECTION 8. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Whenever it appears to the commissioner from any annual or quarterly statement, trusteed surplus statement, or any other report, that a U.S. branch's trusteed surplus is reduced below minimum capital and surplus or the authorized control level risk-based capital, whichever is greater, that are required to be maintained by a domestic insurer authorized to transact the same kinds of insurance, the commissioner may proceed against the insurer under Subtitle 33 of this chapter as an insurer whose condition is such that its further transaction of business in the United States will be hazardous to its policyholders, its creditors, or the public in the United States.

SB 331, AN ACT relating to health maintenance organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.32-140 is amended to read as follows:

(1) No corporation subject to provisions of this subtitle shall be permitted to do any business in this state unless, in addition to the other requirements of law, it shall have and maintain liquid reserves in an amount not less than five percent (5%) of the corporation's subscription income collected in the preceding year not exceeding two million dollars ($2,000,000), plus two and one-half percent (2.5%) of income exceeding two million dollars ($2,000,000) but not exceeding ten million dollars ($10,000,000), plus one percent (1%) of income exceeding ten million dollars ($10,000,000); but in no event shall reserves be less than five hundred thousand dollars ($500,000). All corporations subject to the provisions of this subtitle shall place on deposit with the custodian of insurance securities a guarantee fund of cash or approved securities in an amount determined by this formula, but not less than five hundred thousand dollars ($500,000) nor more than one million five hundred thousand dollars ($1,500,000). Any amount of liquid reserves required by this subsection in excess of one million five hundred thousand dollars ($1,500,000) shall be maintained by the corporation at all times, but shall not be required to be placed on deposit, provided that such a corporation shall be allowed a period of five (5) years after July 15, 1982, to establish the liquid reserves and deposit the guarantee fund with the commissioner. ***A corporation subject to the provisions of this subtitle shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner.***

(2) The cash or securities representing the guarantee fund required by this section shall be acceptable to the custodian of insurance securities and such securities shall be negotiable securities.

(3) The investments of a corporation subject to the provisions of this subtitle shall be the same kind of investments which life insurance companies are authorized to have.

Section 2. KRS 304.38-070 is amended to read as follows:

(1) This subsection applies to a corporation ***or limited liability corporation*** applying for and holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation ***or limited liability corporation*** shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars ($1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars ($2,000,000);

(b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and

(c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars ($250,000) ***and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner***. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.

(2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars ($3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars ($1,250,000) in its capital accounts ***and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the commissioner***;

(b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.

SECTION 3. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health maintenance organization that contracts with a provider or provider organization for the transfer of risk to the provider shall take reasonable steps to ensure the transferee is able to accept and manage the risk to be transferred. The health maintenance organization shall submit a plan for evaluating a provider's or provider organization's ability to accept and manage risk to the department for approval at least forty-five (45) days prior to the proposed date of the transfer of any risk.

(2) If a health maintenance organization transfers risk to a provider:

(a) Not in compliance with the standards listed in its approved plan; or

(b) Prior to filing or receiving approval of its plan;

the commissioner may require the health maintenance organization to retain additional reserves to cover the risk transferred.

Section 4. KRS 304.33-430 is amended to read as follows:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first fifty dollars ($50) of the amount allowed on each claim in the classes under subsections ***(3)***[~~(2)~~] to ***(7)***[~~(6)~~], inclusive, of this section, shall be deducted from the claim and included in the class under subsection ***(9)***[~~(8)~~] of this section. Claims may not be cumulated by assignment to avoid application of the fifty dollars ($50) deductible provision. Subject to the fifty dollars ($50) deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies.

(1) Administration costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

(2) ***Health maintenance organization out-of-network claims. In a liquidation of a health maintenance organization, any***

claims for health plan benefits for out-of-network claims that would have otherwise been covered.

(3) Loss and unearned premium claims. Claims by policyholders, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and claims of guaranty associations or foreign guaranty associations. Notwithstanding the foregoing, the following claims shall be excluded from Class 2 priority:

(a) Obligations of the insolvent insurer arising out of reinsurance contracts;

(b) Obligations incurred after the expiration date of the insurance policy or after the policy has been replaced by the insured or canceled at the insured's request or after the policy has been canceled as provided in this chapter. Notwithstanding this subsection, earned premium claims on policies, other than reinsurance agreements, shall not be excluded;

(c) Obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity or subrogation, equitable or otherwise;

(d) Any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer;

(e) Any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy; and

(f) Tort claims of any kind against the insurer, and claims against the insurer for bad faith or wrongful settlement practices.

(4)~~[(3)]~~Claims of the federal government other than those claims included in Class 2.

(5)~~[(4)]~~Wages.

(a) Debts due to employees for services performed, not to exceed one thousand dollars ($1,000) to each employee which have been earned within one (1) year before the filing of the petition for liquidation. Officers shall not be entitled to the benefit of this priority.

(b) This priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(6)~~[(5)]~~Residual classification. All other claims including claims of the federal or any state or local government, not falling within other classes under this section. Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection *(9)*~~[(8)]~~ of this section.

(7)~~[(6)]~~Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment such weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

(8)~~[(7)]~~Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections (1) to *(7)*~~[(6)]~~ of this section, inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

(9)~~[(8)]~~Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection *(8)*~~[(7)]~~ of this section:

(a) The first fifty dollars ($50) of each claim in the classes under subsections (2) to *(7)*~~[(6)]~~, inclusive, of this section, subordinated under this section;

(b) Claims under subsection (2) of KRS 304.33-380;

(c) Claims subordinated by KRS 304.33-600;

(d) Claims filed late;

(e) Portions of claims subordinated under subsection *(6)*~~[(5)]~~ of this section; and

(f) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

(10)~~[(9)]~~ Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections *(8)*~~[(7)]~~ and *(9)*~~[(8)]~~ of this section.

(11)[~~(10)~~] Proprietary claims. The claims of shareholders or other owners.

Section 5. KRS 304.33-360 is amended to read as follows:

(1) Deadline for filing. Proof of all claims must be filed with the court in the form required by KRS 304.33-370 on or before the last day for filing specified in the notice required under KRS 304.33-250, except that proof of preferred ownership claims and proprietary claims under subsections *(9)*[~~(8)~~] and *(10)*[~~(9)~~] of KRS 304.33-430, need not be filed at all, and proof of claims for unearned premiums and claims for cash surrender values or other investment values in life insurance and annuities need not be filed unless the liquidator expressly so requires.

(2) Excused late filings. For good cause shown, the liquidator shall recommend, and the court shall permit, a claimant making a late filing to share in dividends, whether past or future, as if he were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

- (a) That existence of a claim was not known to the claimant and that he filed within thirty (30) days after he learned of it;
- (b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under KRS 304.33-440, and that it was filed within thirty (30) days after the claimant learned of the omission;
- (c) That a transfer to a creditor was avoided under KRS 304.33-290 to 304.33-330, inclusive, or was voluntarily surrendered under KRS 304.33-320 and that the filing satisfies the conditions of KRS 304.33-320;
- (d) That valuation under KRS 304.33-420 of security held by a secured creditor shows a deficiency, which is filed within thirty (30) days after the valuation; and
- (e) That a claim was contingent and became absolute, and was filed within thirty (30) days after it became absolute.

(3) Unexcused late filings. The liquidator may consider any claim filed late which is not covered by subsection (2) of this section, and permit it to receive dividends, other than the first dividend, which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive, at each distribution, the same percentage of the amount allowed on his claim as is then being paid to other claimants of the same priority plus the same percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This shall continue until his claim has been paid in full.

Section 6. KRS 304.33-380 is amended to read as follows:

(1) Claims contingent on judgments. The claim of a third party which is contingent only on his first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

(2) Claims under terminated policies. Any claim that would have become absolute if there had been no termination of coverage under KRS 304.33-120, and which was not covered by insurance acquired to replace the terminated coverage, shall be allowed as if the coverage had remained in effect, unless at least ten (10) days before the insured event occurred either the claimant had actual notice of the termination or notice was mailed to him as prescribed by subsection (1) of KRS 304.33-250, or subsection (1) of KRS 304.33-260. If allowed, the claim shall share in distributions under subsection *(9)*[~~(8)~~] of KRS 304.33-430.

(3) Other contingent claims. A claim may be allowed even if contingent, if it is filed in accordance with subsection (2) of KRS 304.33-360. It may be allowed and may participate in all dividends declared after it is filed, to the extent that it does not prejudice the orderly administration of the liquidation.

(4) Immature claims. Claims that are due except for the passage of time shall be treated as absolute claims are treated, except that where justice requires the court may order them discounted at the legal rate of interest.

Section 7. KRS 304.33-440 is amended to read as follows:

(1) Immediate Access. Within one hundred twenty (120) days of a final determination of insolvency of a company by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to disburse assets out of such company's marshalled assets, from time to time as such assets become available, to guaranty associations or foreign guaranty associations having obligations because of the insolvency. Such proposal shall at least include provision for:

- (a) Reserving amounts for the payment of the expenses of administration and claims falling within the priorities established in KRS 304.33-430(1) and *(3)*[~~(2)~~];
- (b) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;
- (c) Equitable allocation of disbursements to each of the associations entitled thereto; and
- (d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to paragraph (e) of an agreement to return to the liquidator such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in KRS 304.33-430(1), *(3)*[~~(2)~~] and *(4)*[~~(3)~~] in accordance with such priorities. No bond shall be required of any such association.
- (e) The liquidator's proposal shall also provide for disbursements to the associations in amounts at least equal to the

payments made or to be made thereby for which associations could assert claims against the liquidator, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such payments made or to be made by the association then disbursements shall be in the amount of available assets.

(f) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states in which the company did business. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least thirty (30) days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with this subsection.

(2) Recommended claims. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as he deems necessary. He may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under KRS 304.33-400. As often as practicable, he shall present to the court reports of claims against the insurer with his recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended if any. As soon as reasonably possible after the last day for filing claims, he shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

(3) Allowance of claims. The court may approve, disapprove, or modify any report on claims by the liquidator, except that the liquidator's agreements with other parties shall be final and binding on the court on claims settled for $500 or less. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

Section 8. KRS 304.33-600 is amended to read as follows:

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under subsection ***(8)***[~~(7)~~] of KRS 304.33-430.

SB 341, AN ACT relating to managed health care plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-510 is amended to read as follows:

(1) In addition to the disclosure requirements provided in KRS 304.17A-505, an insurer that offers a managed care plan shall ***notify***[~~disclose to~~] an enrollee, in writing, ***of the availability of a printed document,*** in a manner consistent with KRS 304.14-420 to 304.14-450, ***containing*** the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request. ***In addition to making the information available in a printed document, an insurer may also make the information available in an accessible electronic format.***

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

Section 2. KRS 304.17A-590 is amended to read as follows:

(1) An insurer that offers a managed care plan ***or a risk-bearing managed care plan*** shall ***notify***[~~disclose to~~] an enrollee, in writing, ***of the availability,*** in a manner consistent with KRS 304.14-420 to 304.14-450,[~~ and any risk-bearing managed care plan shall disclose to an enrollee,~~] in writing, at the time of enrollment and thereafter upon request, and as new providers are contracted with by the plans, or as the directory may change, ***of*** a current participating provider directory providing information on a covered person's access to primary care physicians and specialists, optometrists, chiropractors, and hospitals, including available participating physicians, optometrists, chiropractors, and hospitals, by provider category or specialty and by county. The directory shall include the following:

(a) Professional office addresses and telephone numbers for all participating:

1. Primary care physicians;
2. Optometrists;
3. Chiropractors;
4. Hospitals; and
5. Other health care providers as defined under KRS 304.17A-010(11);

(b) Information about drug formularies and their restrictions, limitations, and procedures for authorization outside the formularies;

(c) The benefits for each provider type;

(d) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(e) Grievance procedures available under the plans for complaint resolutions.

In addition to making the information available in a printed document, an insurer may also make the information available in an accessible electronic format.

(2) The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider.

(3) The provisions of this section shall be implemented prior to any open enrollment period for which the effective date of coverage will be January 1, 1999, or for which the effective date shall commence after an open enrollment period, and shall continue for each open enrollment period thereafter.

The Committee on Health and Welfare reported **SB 267, SB 324, SB 330,** and **SB 351** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 267, AN ACT relating to Parkinson's disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that the mission of this section is to:

(a) Find the cause of and the cure for Parkinson's disease and related neurological disorders;

(b) Educate general medicine practitioners to detect the early warning signs of Parkinson's disease;

(c) Educate patients, their caregivers, and the general public about Parkinson's disease;

(d) Provide diagnostic and therapeutic services for patients of Parkinson's disease; and

(e) Improve the quality of life for both patients of Parkinson's disease and their caregivers.

(2) The Commonwealth Parkinson's Center is created at the University of Kentucky, and the Muhammad Ali Parkinson's Center is created at the University of Louisville Hospital. Each center shall:

(a) Coordinate services with community agencies and the university's school of medicine;

(b) Encourage the university at which it is located to develop research dedicated to finding the cause and cure of Parkinson's disease;

(c) Assist patients of Parkinson's disease with securing, either at the center, the university, or through local resources, a complete diagnostic examination that includes, but is not limited to, a general physical examination, a blood profile, a psychological evaluation, and a neurological examination;

(d) Assist patients of Parkinson's disease with securing a full range of follow-up therapies, including, but not limited to, physical, occupational, pharmacological, and speech therapies;

(e) Educate patients on issues associated with Parkinson's disease, and educate their families on issues related to caring for the person living with Parkinson's disease;

(f) Educate all health care providers and other professionals impacted or affected by the treatment or rendering of services to the person living with Parkinson's disease;

(g) Educate the community about Parkinson's disease through innovative outreach programs;

(h) Educate rural areas in Kentucky about Parkinson's disease, and work with community leaders from around the Commonwealth to ensure the availability of information about Parkinson's disease and its treatment;

(i) Sponsor patient seminars on Parkinson's disease and support groups for patients of Parkinson's disease, their families and friends, and their caregivers; and

(j) Explore the establishment of an adult day care center that provides care for the person living with Parkinson's disease.

(3) Each center shall develop and implement protocols established by the National Parkinson Foundation, Inc., including, but not limited to, protocols relating to staffing, required programs, and treatment.

(4) By September 1 of each year, each center shall submit a report to the Governor and the General Assembly that evaluates and makes recommendations concerning:

(a) The center's efforts at achieving the goals specified in subsection (1) of this section;

(b) The center's provision of those services specified in subsection (2) of this section; and

(c) The center's success at utilizing existing and newly developing technology to carry out the provisions of this section.

SB 324, AN ACT relating to medical residency programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.560 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

(b) *1.* Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; *or*

2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board; or

(c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. This shall not be construed to otherwise exempt interns or first-year postgraduate trainees, or to exempt in any manner resident or staff physicians of hospitals, from the licensure requirements of KRS *311.530*~~[311.550]~~ to 311.620. *A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620.*

(3) Physician assistants shall be considered to practice medicine or osteopathy with physician supervision. A physician assistant may perform those duties and responsibilities that are delegated by the supervising physician. A physician assistant shall be considered the agent of the supervising physician in the performance of all practice-related activities, including, but not limited to, the performance of or ordering of diagnostic, therapeutic, and other medical services. A

physician assistant shall not render services in hospitals or other licensed health care facilities without the express written permission of the facility's governing body. The facility may restrict the physician assistant's scope of practice within the facility as the facility deems appropriate.

(4) A physician assistant may prescribe and administer drugs and medical devices to the extent delegated by the supervising physician. Prescribing and administering of drugs may include all nonscheduled legend drugs. Any physician assistant who is delegated prescribing privileges may request, receive, and sign for professional sample drugs and distribute professional sample drugs to patients.

SB 330, AN ACT relating to the licensing of hospital outpatient services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, if the Federal Health Care Financing Administration issues a final regulation establishing an outpatient Medicare prospective payment system for hospitals that requires that an outpatient health facility operated by the hospital be under the same license as the hospital to achieve provider-based status, the cabinet shall, at the hospital's request, issue a new license to a hospital that owns and operates an existing or newly established outpatient health facility that lists each location operated by the hospital.

(2) Any outpatient health facility listed on the hospital's license under subsection (1) of this section shall:

- ***(a) Comply with all applicable licensure regulations that pertain to the type of health services provided; and***
- ***(b) Prior to the establishment of a health facility, the operation of a health facility, or the provision of health services or the addition of a health service at a location other than the hospital's main campus, obtain a certificate of need if a certificate of need would otherwise be required in the absence of subsection (1) of this section. Licensure of the outpatient health facility or service under the same license as the hospital pursuant to subsection (1) of this section shall not eliminate the requirements for a certificate of need.***

SB 351, AN ACT relating to respiratory care practitioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314A.010 is amended to read as follows:

As used in this chapter:

(1) "Respiratory care" includes "respiratory therapy," "inhalation therapy," or other "cardiopulmonary" terms.

(2) "Practice of respiratory care" means the procedures employed in the therapy, management, rehabilitation, gathering of assessment information, or other procedures administered to patients with deficiencies or abnormalities which affect their cardiopulmonary system and associated aspects of cardiopulmonary and other system functions. This includes, but is not limited to:

- (a) Provision of respiratory care procedures to ensure the safety, comfort, personal hygiene, protection of patients, and the performance of disease prevention and restorative measures;
- (b) The administration of pharmacologic and therapeutic agents related to the cardiopulmonary care necessary for treatment, disease prevention, or rehabilitation regimes prescribed by a physician; and
- (c) Observation of signs and symptoms of cardiopulmonary illness, reactions to treatment, general physical condition; determination of whether such signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics; and performance of standard procedures according to observed abnormalities, or reporting them to the physician in charge or other caretakers; initiating standard or emergency procedures.

(3) "Respiratory care practitioner" means a person who holds a mandatory certificate approved by the board. The term "respiratory care practitioner" includes the following:

- (a) A "***registered*** respiratory therapist" means an individual who has successfully completed a training program accredited by the American Medical Association's ***Commission***~~[Committee]~~ on ***Accreditation of*** Allied Health Education ***or its equivalent***~~[and Accreditation]~~ in collaboration with the ***Committee on Accreditation***~~[Joint Review Committee]~~ for Respiratory ***Care or its equivalent***~~[Therapy Education]~~, and who has successfully completed the registry examination for ***advanced*** respiratory therapists administered by the National Board of Respiratory Care, Incorporated ***or its equivalent***;
- (b) ***An "entry level therapist"***~~[A "respiratory care technician"]~~ means an individual who has successfully completed a training program accredited by the American Medical Association's ***Commission***~~[Committee]~~ on ***Accreditation of*** Allied Health Education ***or its equivalent***~~[and Accreditation]~~ in collaboration with the ***Committee on Accreditation***~~[Joint Review Committee]~~ for Respiratory ***Care or its equivalent***~~[Therapy Education]~~, and who has successfully completed the entry level certification examination for respiratory care technicians administered by

the National Board for Respiratory Care, Incorporated ***or its equivalent***;

(c) A "graduate respiratory care practitioner" means an individual who has graduated from an approved educational program and ***eligible***[~~is waiting~~] to sit for the[~~ next available~~] entry level certification examination that will be administered by the National Board for Respiratory Care, Incorporated ***or its equivalent***;

(d) A "student respiratory care practitioner" means:

1. An individual enrolled in an education and training program, accredited by the American Medical Association's ***Commission***[~~Committee~~] on ***Accreditation of*** Allied Health Education ***or its equivalent***[~~and Accreditation~~] and the ***Committee on Accreditation for Respiratory Care or its equivalent***[~~Joint Review Committee for Respiratory Therapy Education~~], for respiratory care practitioners and whose sponsoring educational institution assumes responsibility for the supervision of and the services rendered by the student respiratory care practitioner while ***the student***[~~he~~] is functioning in a clinical training capacity; or

2. An individual enrolled in an education and training program, accredited by the American Medical Association's ***Commission***[~~Committee~~] on ***Accreditation of*** Allied Health Education ***or its equivalent***[~~and Accreditation~~] and the ***Committee on Accreditation for Respiratory Care or its equivalent***[~~Joint Review Committee for Respiratory Therapy Education~~], and who is also employed for compensation to provide respiratory care services as outlined in ***Section 4 of this Act***[~~KRS 314A.110(1)(d)~~].

(4) "Board" means the Kentucky Board of Respiratory Care.

(5) "Accredited program" means a training program accredited by the American Medical Association's ***Commission***[~~Committee~~] on ***Accreditation of*** Allied Health ***or its equivalent***[~~Education~~] in collaboration with the ***Committee on Accreditation for Respiratory Care or its equivalent***[~~Joint Review Committee for Respiratory Therapy Education~~] which qualifies the graduate to sit for the registry examination [~~for respiratory therapists~~] or the entry level[~~ certification~~] examination[~~ for respiratory care technicians~~] administered by the National Board for Respiratory Care ***or its equivalent***.

(6) "Mandatory certification" means the board's official authorization to practice respiratory care for the time specified by the mandatory certification.[~~; and~~]

(7) "Continuing education" means educational activities primarily designed to keep respiratory care practitioners informed of developments in the respiratory care field or any special areas of practice engaged in by such persons.

(8) "Documented competency" means adherence to guidelines established by health facilities, medical staff, or accreditation agencies. These guidelines shall be in accordance with national standards of practice deemed appropriate by the National Board for Respiratory Care or its equivalent.

(9) "Medical director" means a licensed physician who is knowledgeable in the diagnosis, treatment, and assessment of respiratory problems and whose responsibilities are established by statutes and regulations governing the operation of facilities licensed under KRS Chapter 216B, as well as statutes and regulations dealing with hospice, home health, and other settings where respiratory care services may be delivered.

(10) "Direct supervision" means supervision by a holder of a mandatory certificate who shall be on the premises where respiratory care services are provided and who shall be available for immediate consultation.

(11) "Indirect supervision" means supervision by a holder of a mandatory certificate who shall be available by telephone and who shall have a response time, if needed, of thirty (30) minutes or less.

Section 2. KRS 314A.100 is amended to read as follows:

(1) A respiratory care practitioner may perform respiratory care procedures under medical direction ***with documented competency***, in accordance with agency or facility guidelines and only in accordance with the prescription of a physician. The procedures shall include, but not be limited to, the assessment and therapeutic use of the following: medical gases, exclusive of general anesthesia; aerosols, humidification, environmental control systems; pharmacologic agents related to ***cardiopulmonary procedures, unless prohibited by the medical staff of the licensed health-care facility***[~~respiratory care procedures, excluding intravenous or intramuscular medications~~]; mechanical or physiological ventilatory support; bronchopulmonary hygiene, maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; specific assessment and testing procedures such as drawing and analyzing of arterial blood gases employed in the medical measurement and monitoring of cardiac function as it relates to pulmonary pathophysiology.

(2) The practice of respiratory care may be performed in hospitals or in other settings where respiratory care is to be provided in accordance with a prescription of a physician. In addition, respiratory care may be provided during the transportation of a patient, or under any circumstances where an emergency necessitates respiratory care.

(3) The respiratory care practitioner may transcribe and implement a physician's written or verbal orders pertaining to the practice of respiratory care procedures as defined in this section.

(4) The respiratory care practitioner's scope of practice shall include practice standards and guidelines as developed by the American Association for Respiratory Care, or its equivalent, and as incorporated by the board through promulgation of administrative regulations in accordance with KRS Chapter 13A.

Section 3. KRS 314A.110 is amended to read as follows:

(1) To be eligible for mandatory certification as a respiratory care practitioner the applicant shall ***hold a currently valid registered respiratory therapist (RRT) or certified respiratory therapist (CRT) credential issued by the National Board for Respiratory Care or its equivalent***[~~;~~

~~(a) Initially submit a completed application within twelve (12) months after July 13, 1990, with the required fee, and meet the requirements of paragraphs (b), (c), or (d) of this subsection; thereafter, only persons qualified under paragraph (b) or (d) of this subsection or under subsection (2) of this section may apply for a mandatory certificate;~~

~~(b) Hold a currently valid certificate of registry or certification issued by the National Board for Respiratory Care or its successor~~].

(2) A temporary mandatory certificate may be issued to the graduate respiratory care practitioner ***for a period not to exceed six (6) months from graduation***[~~which shall be effective until receipt of a passing score from the first available National Board for Respiratory Care entry-level certification examination for which the graduate respiratory care practitioner is eligible~~]. The holder of a ***temporary*** mandatory certificate who does not successfully pass the[~~ first available~~] National Board for Respiratory Care ***or its equivalent*** entry-level certification examination ***within a six (6) month period***[~~for which he is eligible~~] shall cease and desist performing any services as a respiratory care practitioner. Failure to comply in this instance shall subject ***the individual***[~~him~~] to prosecution for practicing as a respiratory care practitioner without a mandatory certificate.[~~ However, a failing score on the entry-level certification examination shall not prevent an applicant from applying for and taking subsequent entry level certification examinations according to National Board for Respiratory Care guidelines;~~

~~(c) Individuals that do not hold a valid certificate of registry or certification, but who have practiced respiratory care in the Commonwealth of Kentucky for a minimum of twenty-four (24) months under medical supervision, and who provide satisfactory documentation of such experience, may apply to the board for a mandatory certificate, provided such documentation is presented within twelve (12) months of July 13, 1990;~~]

(3)[~~(d)~~]In order for student respiratory care practitioners to be employed for compensation to provide respiratory care services, they must apply to the board for a limited mandatory certificate which will permit them to perform respiratory care procedures (for which they have received training) under the ***direct*** supervision of a respiratory therapist ***who holds a mandatory certificate***[~~or a respiratory care technician~~]. This limited mandatory certificate excludes the performance of continuous mechanical or physiological ventilatory support, arterial puncture, and blood gas analysis. The limited mandatory certificate may be granted only to individuals actively enrolled in an accredited program and for a period not to exceed three (3) years. This limited mandatory certificate is in no manner required for individuals actively enrolled in an accredited program while performing uncompensated clinical activities required by the program.

(4)[~~(2)~~]Respiratory care practitioners duly authorized to practice in other states and in good standing ***and who hold the CRT credential or its equivalent*** may be conferred a mandatory certificate by the board if the requirements for licensure or certification in that state are substantially equal to the requirements of this section.

(5)[~~(3)~~]Respiratory ***therapists***[~~care technicians~~] applying for mandatory certification shall retain their National Board for Respiratory Care (NBRC) ***designations***[~~designation~~] as certified respiratory ***therapists (CRT) or registered respiratory therapists (RRT)***[~~therapy technicians in addition to that of respiratory care practitioner, and respiratory therapists shall retain their NBRC designation as registered respiratory therapists in addition to respiratory care practitioner subject to the requirements of mandatory certification herein described~~]. Persons ***holding a***[~~ applying for~~] mandatory certification through the limited mechanism of grandfather status shall solely be designated as respiratory care practitioner.

(6)[~~(4)~~]Mandatory certification of respiratory care practitioners shall be on a biennial basis according to established criteria under KRS 314A.115. Mandatory certificates issued by the board shall expire and shall not be renewed unless the certificate holder submits proof to the board of compliance with KRS 314A.115. On and after the date on which a person's mandatory certificate has expired, ***the practitioner***[~~he~~] may apply for reinstatement within five (5) years of the expiration of the mandatory certificate. The applicant shall show compliance with the current continuing education requirement in force at the time of mandatory certificate renewal application. After expiration of a five (5) year period, current standards for mandatory certification shall be met. The board may require individualized conditions for reinstatement.

SECTION 4. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

To be eligible for limited mandatory certification as a respiratory care practitioner, the applicant shall meet the criteria established under this chapter and any administrative regulation promulgated to carry out the provisions of this chapter.

Section 5. KRS 314A.200 is amended to read as follows:

(1) There is hereby created a Board of Respiratory Care which shall consist of seven (7) ***voting*** members appointed by the Governor.

(a) Four (4) members shall be respiratory care practitioners ***holding a valid mandatory certificate and practicing in Kentucky;***[~~chosen from a list of seven (7) submitted by the Kentucky Society for Respiratory Care,~~]

(b) Two (2) ***members*** shall be pulmonologists ***who are licensed and practicing physicians in Kentucky;***[~~,~~] and *(c)* One (1) ***member*** shall be a citizen at large who is not associated with or financially interested in respiratory care.

(2) ***Members shall be appointed to the board for terms of three (3) years, expiring on October 30 of the third year.***[~~The executive director of the Division of Occupations and Professions shall serve on the board in an ex officio capacity. The respiratory care practitioner members shall hold valid mandatory certificates in Kentucky and shall also practice in the Commonwealth. The pulmonologists shall be licensed physicians practicing in Kentucky. The members of the board shall serve until the expiration of the term for which they have been appointed. All appointments made shall be for a term of three (3) years, except for appointments to fill vacancies caused by a reason other than the expiration of a member's term which shall be filled for the remaining portion of the member's term.~~] No person shall be appointed to serve more than two (2) consecutive terms.

(3) ***By May 30 of years in which respiratory care practitioner terms expire, the Kentucky Society for Respiratory Care shall submit to the Governor a list of names of candidates qualified for the appointment of respiratory care practitioner, in numbers not less than twice the numbers of appointments to be made, from which the Governor shall make each appointment or appointments by October 31 of that year. The Governor shall also appoint the pulmonologist and citizen at-large members by October 31 of any year in which a term expires.***

(4) ***A vacancy on the board shall be filled by the Governor as provided under subsection (1) of this section. The appointment shall be for the remaining portion of the member's term.***

(5) ***The Governor or board may remove a member from the board for cause or as provided under administrative regulations promulgated by the board in accordance with KRS Chapter 13A.***

(6) The board shall reorganize annually and select a chairperson. Four (4) ***voting*** members of the board shall constitute a quorum to do business. The board shall hold at least one (1) regular meeting each year. Additional meetings may be held upon the call of the chairperson or at the written request of any two (2) members of the board. All meetings of the board shall be open and public ***to the extent permitted by law***.

Section 6. KRS 314A.220 is amended to read as follows:

(1) The board shall issue a mandatory certificate to all applicants who meet the requirements of this chapter and who pay to the board the initial mandatory certificate fee.

(2) The amount of fees prescribed in connection with a mandatory certificate as a respiratory care practitioner shall be ***prescribed by administrative regulation promulgated by the board in accordance with KRS Chapter 13A***[~~as follows:~~

~~(a) The initial mandatory certificate fee shall not exceed fifty dollars ($50);~~

~~(b) The delinquency fee shall not exceed twenty dollars ($20);~~

~~(c) The application fee shall not exceed fifty dollars ($50);~~

~~(d) The inactive mandatory certificate fee shall not exceed ten dollars ($10) every two (2) years; and~~

~~(e) The temporary mandatory certificate fee shall not exceed ten dollars ($10)~~].

(3) Each respiratory care mandatory certificate shall expire on January 30 every two (2) years. A thirty (30) day grace period shall be allowed after January 30, during which time mandatory certificates may be renewed on payment of a renewal fee of not more than seventy dollars ($70) plus a grace period fee, when applicable, which combined will not exceed ninety dollars ($90). No person who applies for renewal, whose mandatory certificate has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within five (5) years from the date of such expiration. No person shall practice respiratory care in this state unless ***the individual***[~~he~~] holds a valid certificate. All mandatory certificates not renewed by March 2 following the date of issuance shall be deemed expired.

(4) A suspended mandatory certificate is subject to expiration and shall be renewed as provided in this chapter, but such renewal shall not entitle the respiratory care practitioner, while the mandatory certificate remains suspended, and until it is reinstated, to engage in mandatory certification activities, or in any other activity or conduct in violation of the order of judgment by which the mandatory certificate was suspended. A mandatory certificate revoked on disciplinary grounds is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the mandatory certificate holder, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(5) A person who fails to renew his or her mandatory certificate within the five (5) years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such persons may apply for and obtain a new mandatory certificate if he meets the requirements of this chapter.

Section 7. KRS 314A.225 is amended to read as follows:

(1) The board may refuse to issue a mandatory certificate, or may suspend or revoke the mandatory certificate of any certificate holder if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct may include:

(a) Obtaining a mandatory certificate by means of fraud, misrepresentation, or concealment of material facts;

(b) Having been guilty of unprofessional conduct as defined by the administrative regulations promulgated by the board, or having violated the code of ethics promulgated by the board;

(c) Having violated any lawful order or administrative regulation rendered or promulgated by the board; or

(d) Having violated any provisions of this chapter.

(2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a mandatory certificate as ordered by the board in any decision made after a hearing conducted in accordance with KRS Chapter 13B. One (1) year from the date of revocation of a mandatory certificate under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this chapter. At the direction of the board and after a hearing conducted in accordance with KRS Chapter 13B, the mandatory certificate shall be suspended or revoked, or issuance of a mandatory certificate shall be declined when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing a person to withdraw his plea of guilty, and to enter a plea of not guilty or setting aside the verdict of guilty, or dismissing the acquisition, information, or indictment.

(4) (a) The chair of the board or the chair's designee may determine that immediate temporary suspension of a certificate, against which disciplinary action or an investigation is pending, is necessary to protect the public. If it appears that this action may be necessary, the chair or the designee shall issue an emergency order suspending the certificate. Upon appeal of an emergency order, an emergency hearing shall be conducted under KRS Chapter 13B.

(b) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that the member has previously served on a hearing panel considering temporary suspension of the same certificate.

(c) The board shall expedite the disciplinary process in any action that involves a certificate that has been temporarily suspended.

(d) The order of immediate temporary suspension shall remain in effect until either retracted or superseded by final disciplinary action by the board. If disciplinary action is imposed, the board may order that the temporary suspension continue until the later of the expiration of the time permitted for appeal or the termination of the appellate process.

Section 8. The terms of the members of the Board of Respiratory Care who hold membership as of the effective date of this Act shall expire on October 31, 2000. By August 15, 2000, the Kentucky Society for Respiratory Care shall submit to the Governor a list of eight (8) names of candidates who are qualified for appointment as respiratory care practitioners. The Governor shall make the appointments of the respiratory care practitioners from this list by October 31, 2000, and the Governor shall also make the appointments of qualified pulmonologists and the citizen at-large member by October 31, 2000. The terms of the initial appointments shall be staggered to assure continuity of experience, as follows: two (2) respiratory care practitioners and one (1) pulmonologist shall serve for one (1) year; two (2) respiratory care practitioners and one (1) pulmonologist shall serve for two (2) years; and the citizen at-large-member shall serve for three (3) years. Subsequent appointments shall be for three (3) years and as provided under Section 5 of this Act.

The Committee on Judiciary reported **SB 11,** with House Committee Substitute attached thereto, **SB 52, SB 116,** with House Committee Substitute attached thereto, **SB 137, SB 167,** with House Committee Amendment attached thereto, **SB 189,** with House Committee Substitute attached thereto, **SB 198, SB 223, SB 257,** and **SB 298,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 11, AN ACT providing for the adoption of revised articles of the Uniform Commercial Code and making changes incidental thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SEGMENT A

REVISED ARTICLE 5

(LETTERS OF CREDIT)

SECTION 1. KRS 355.5-101 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This article may be cited as Uniform Commercial Code -- Letters of Credit.

SECTION 2. KRS 355.5-102 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this article:

(a) "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

(b) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

(c) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

(d) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

(e) "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

(f) "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion:

1. Which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in subsection (5) of Section 8 of this Act; and

2. Which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

(g) "Good faith" means honesty in fact in the conduct or transaction concerned.

(h) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs:

1. Upon payment;

2. If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

3. If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(i) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(j) "Letter of credit" means a definite undertaking that satisfies the requirements of Section 4 of this Act by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(k) "Nominated person" means a person whom the issuer:

1. Designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit; and

2. Undertakes by agreement or custom and practice to reimburse.

(l) "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(m) "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person.

(n) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(o) "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(2) Definitions in other articles in this chapter applying to this article and the sections in which they appear are:

"Accept" or "Acceptance"	*KRS 355.3-409;*
"Value"	*KRS 355.3-303 and 355.4-211.*

(3) Article 1 of this chapter contains certain additional general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 3. KRS 355.5-103 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(2) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.

(3) With the exception of this subsection, subsections (1) and (4) of this section, subsection (1)(i) and (j) of Section 2 of this Act, subsection (4) of Section 6 of this Act, and subsection (4) of Section 14 of this Act, and to the extent prohibited in KRS 355.1-102(3) and subsection (4) of Section 17 of this Act, the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.

(4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

SECTION 4. KRS 355.5-104 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated:

(1) By a signature; or

(2) In accordance with the agreement of the parties or the standard practice referred to in subsection (5) of Section 8 of this Act.

SECTION 5. KRS 355.5-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

SECTION 6. KRS 355.5-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(2) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(3) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one (1) year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(4) A letter of credit that states that it is perpetual expires five (5) years after its stated date of issuance, or if none is stated, after the date on which it is issued.

SECTION 7. KRS 355.5-107 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

(2) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

(3) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

(4) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection (3) of this section. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

SECTION 8. KRS 355.5-108 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 9 of this Act, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (5) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in Section 13 of this Act and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

(2) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

  (a) To honor;

  (b) If the letter of credit provides for honor to be completed more than seven (7) business days after presentation, to accept a draft or incur a deferred obligation; or

  (c) To give notice to the presenter of discrepancies in the presentation.

(3) Except as otherwise provided in subsection (4) of this section, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

(4) Failure to give the notice specified in subsection (2) of this section or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor fraud or forgery as described in subsection (1) of Section 9 of this Act or expiration of the letter of credit before presentation.

(5) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

(6) An issuer is not responsible for:

(a) The performance or nonperformance of the underlying contract, arrangement, or transaction;

(b) An act or omission of others; or

(c) Observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection (5) of this section.

(7) If an undertaking constituting a letter of credit under subsection (1)(j) of Section 2 of this Act contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

(8) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

(9) An issuer that has honored a presentation as permitted or required by this article:

(a) Is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

(b) Takes the documents free of claims of the beneficiary or presenter;

(c) Is precluded from asserting a right of recourse on a draft under KRS 355.3-414 and 355.3-415;

(d) Except as otherwise provided in Sections 10 and 17 of this Act, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

(e) Is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

SECTION 9. KRS 355.5-109 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

(a) The issuer shall honor the presentation, if honor is demanded by:

1. A nominated person who has given value in good faith and without notice of forgery or material fraud;

2. A confirmer who has honored its confirmation in good faith;

3. A holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person; or

4. An assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

(b) The issuer, acting in good faith, may honor or dishonor the presentation in any other case.

(2) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

(a) The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

(b) A beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

(c) All of the conditions to entitle a person to the relief under the law of this Commonwealth have been met; and

(d) On the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under

subsection (1)(a) of this section.

SECTION 10. KRS 355.5-110 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If its presentation is honored, the beneficiary warrants:

(a) To the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in subsection (1) of Section 9 of this Act; and

(b) To the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

(2) The warranties in subsection (1) of this section are in addition to warranties arising under Articles 3, 4, 7, and 8 of this chapter because of the presentation or transfer of documents covered by any of those articles.

SECTION 11. KRS 355.5-111 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

(2) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

(3) If an adviser or nominated person other than a confirmer breaches an obligation under this article or an issuer breaches an obligation not covered in subsection (1) or (2) of this section, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (1) and (2) of this section.

(4) An issuer, nominated person, or adviser who is found liable under subsection (1), (2), or (3) of this section shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(5) Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this article.

(6) Damages that would otherwise be payable by a party for breach of an obligation under this article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

SECTION 12. KRS 355.5-112 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 13 of this Act, unless a letter of credit provides that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

(2) Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

(a) The transfer would violate applicable law; or

(b) The transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in subsection (5) of Section 8 of this Act or is otherwise reasonable under the circumstances.

SECTION 13. KRS 355.5-113 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(2) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (5) of this section, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in subsection (5) of Section 8 of this Act or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(3) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(4) Honor of a purported successor's apparently complying presentation under subsection (1) or (2) of this section has the consequences specified in subsection (9) of Section 8 of this Act even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither

the beneficiary nor the successor of the beneficiary are forged documents for the purposes of Section 9 of this Act.

(5) An issuer whose rights of reimbursement are not covered by subsection (4) of this section or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection (2) of this section.

(6) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

SECTION 14. KRS 355.5-114 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(2) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(3) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(4) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(5) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(6) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9 of this chapter or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9 of this chapter or other law.

SECTION 15. KRS 355.5-115 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An action to enforce a right or obligation arising under this article must be commenced within one (1) year after the expiration date of the relevant letter of credit or one (1) year after the claim for relief accrues, whichever occurs later. A claim for relief accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

SECTION 16. KRS 355.5-116 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in Section 4 of this Act or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(2) Unless subsection (1) of this section applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one (1) address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(3) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If:

(a) This article would govern the liability of an issuer, nominated person, or adviser under subsection (1) or (2) of this section;

(b) The relevant undertaking incorporates rules of custom or practice; and

(c) There is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in subsection (3) of Section 3 of this Act.

(4) If there is conflict between this article and Article 3, 4, 4A, or 9 of this chapter, this article governs.

(5) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (1) of this section.

SECTION 17. KRS 355.5-117 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if

the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

(2) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection (1) of this section.

(3) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

(a) The issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

(b) The beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

(c) The applicant to same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

(4) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections (1) and (2) of this section do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection (3) of this section do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.

SECTION 18. A NEW SECTION OF ARTICLE 5 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.5-118:

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1) of this section, the security interest continues and is subject to Article 9 of this chapter, but:

(a) A security agreement is not necessary to make the security interest enforceable under subsection (2)(c) of Section 33 of this Act;

(b) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(c) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

SEGMENT B
CONFORMING AMENDMENTS
FOR REVISED ARTICLE 5

Section 19. KRS 355.1-105 is amended to read as follows:

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this *Commonwealth*[~~state~~] and also to another state or nation the parties may agree that the law either of this *Commonwealth*[~~state~~] or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this *Commonwealth*[~~state~~].

(2) Where one (1) of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of the laws rules) so specified:

Rights of creditors against sold goods. KRS 355.2-402.

Applicability of the article on leases. KRS 355.2A-105 and 355.2A-106.

Applicability of the article on bank deposits and collections. KRS 355.4-102.

Applicability of the article on investment securities. KRS 355.8-110.

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. Sections 41 to 47 of this Act[~~Perfection provisions of the article on secured transactions. KRS 355.9-103~~].

Governing law in the article on funds transfers. KRS 355.4A-507.

Letters of credit. Section 16 of this Act.

Section 20. KRS 355.2-512 is amended to read as follows:

(1) Where the contract requires payment before inspection nonconformity of the goods does not excuse the buyer from so making payment unless

  (a) the nonconformity appears without inspection; or

  (b) despite tender of the required documents the circumstances would justify injunction against honor under~~[the provisions of]~~ this chapter (*subsection (2) of Section 9 of this Act*~~[KRS 355.5-114]~~).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies.

SEGMENT C
REVISED ARTICLE 9
(SECURED TRANSACTIONS)
PART 1
GENERAL PROVISIONS
SUBPART 1 SHORT TITLE, DEFINITIONS AND GENERAL CONCEPTS

SECTION 21. KRS 355.9-101 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This article may be cited as Uniform Commercial Code – Secured Transactions.

SECTION 22. KRS 355.9-102 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this article:

  (a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

  (b) 1. "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance:

      a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

      b. For services rendered or to be rendered;

      c. For a policy of insurance issued or to be issued;

      d. For a secondary obligation incurred or to be incurred;

      e. For energy provided or to be provided;

      f. For the use or hire of a vessel under a charter or other contract;

      g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or

      h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

    2. The term includes health-care-insurance receivables.

    3. The term does not include:

      a. Rights to payment evidenced by chattel paper or an instrument;

      b. Commercial tort claims;

      c. Deposit accounts;

      d. Investment property;

      e. Letter-of-credit rights or letters of credit; or

      f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

  (c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

  (d) "Accounting," except as used in "accounting for," means a record:

    1. Authenticated by a secured party;

    2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

- *1. Which secures payment or performance of an obligation for:*
    - *a. Goods or services furnished in connection with a debtor's farming operation; or*
    - *b. Rent on real property leased by a debtor in connection with its farming operation;*
- *2. Which is created by statute in favor of a person that:*
    - *a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or*
    - *b. Leased real property to a debtor in connection with the debtor's farming operation; and*
    - *c. Whose effectiveness does not depend on the person's possession of the personal property.*

(f) "As-extracted collateral" means:

- *1. Oil, gas, or other minerals that are subject to a security interest that:*
    - *a. Is created by a debtor having an interest in the minerals before extraction; and*
    - *b. Attaches to the minerals as extracted; or*
- *2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.*

(g) "Authenticate" means:

- *1. To sign; or*
- *2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.*

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

- *1. Charters or other contracts involving the use or hire of a vessel; or*
- *2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.*

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- *1. Proceeds to which a security interest attaches;*
- *2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and*
- *3. Goods that are the subject of a consignment.*

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

- *1. The claimant is an organization; or*
- *2. The claimant is an individual and the claim:*
    - *a. Arose in the course of the claimant's business or profession; and*
    - *b. Does not include damages arising out of personal injury to or the death of an individual.*

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

- *1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for* *such a contract pursuant to federal commodities laws; or*

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person that:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person that delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes;

2. A security interest secures the obligation; and

3. The collateral is held or acquired primarily for personal, family, or household purposes.

The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(ab) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(ac) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(ad) "Document" means a document of title or a receipt of the type described in KRS 355.7-201(2).

(ae) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(af) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(ag) "Equipment" means goods other than inventory, farm products, or consumer goods.

(ah) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation;

4. Products of crops or livestock in their unmanufactured states; or

5. Equine interests, including, but not limited to, interests in horses, mares, yearlings, foals, weanlings, stallions, syndicated stallions, and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof. If goods are farm products, they are neither equipment nor inventory.

(ai) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(aj) "File number" means the number assigned to an initial financing statement pursuant to subsection (1) of Section 110 of this Act.

(ak) "Filing office" means an office designated in Section 92 of this Act as the place to file a financing statement.

(al) "Filing-office rule" means a rule adopted pursuant to Section 117 of this Act.

(am) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(an) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections (1) and (2) of Section 93 of this Act. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(ao) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(ap) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(aq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(ar) "Goods" means all things that are movable when a security interest attaches.

1. The term includes:

a. Fixtures;

b. Standing timber that is to be cut and removed under a conveyance or contract for sale;

c. The unborn young of animals;

d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and

e. Manufactured homes.

2. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:

a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or

b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.

3. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.

4. *The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.*

(as) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(at) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(au) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:

1. *Investment property;*
2. *Letters of credit; or*
3. *Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.*

(av) "Inventory" means goods, other than farm products, which:

1. *Are leased by a person as lessor;*
2. *Are held by a person for sale or lease or to be furnished under a contract of service;*
3. *Are furnished by a person under a contract of service; or*
4. *Consist of raw materials, work in process, or materials used or consumed in a business.*

(aw) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(ax) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(ay) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(az) "Lien creditor" means:

1. *A creditor that has acquired a lien on the property involved by attachment, levy, or the like;*
2. *An assignee for benefit of creditors from the time of assignment;*
3. *A trustee in bankruptcy from the date of the filing of the petition; or*
4. *A receiver in equity from the time of appointment.*

(ba) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bb) "Manufactured-home transaction" means a secured transaction:

1. *That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or*
2. *In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.*

(bc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(bd) "New debtor" means a person that becomes bound as debtor under subsection (4) of Section 33 of this Act by a security agreement previously entered into by another person.

(be) "New value" means:

1. *Money;*
2. *Money's worth in property, services, or new credit; or*

3. Release by a transferee of an interest in property previously transferred to the transferee.

The term does not include an obligation substituted for another obligation.

(bf) "Noncash proceeds" means proceeds other than cash proceeds.

(bg) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

1. Owes payment or other performance of the obligation;

2. Has provided property other than the collateral to secure payment or other performance of the obligation; or

3. Is otherwise accountable in whole or in part for payment or other performance of the obligation.

The term does not include issuers or nominated persons under a letter of credit.

(bh) "Original debtor," except as used in subsection (3) of Section 50 of this Act, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subsection (4) of Section 33 of this Act.

(bi) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(bj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(bk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1. of this paragraph;

4. The spouse of an individual described in subparagraph 1., 2., or 3. of this paragraph; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., 2., 3., or 4. of this paragraph and shares the same home with the individual.

(bl) "Proceeds," except as used in subsection (2) of Section 127 of this Act, means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(bm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(bn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 138, 139, and 140 of this Act.

(bo) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;

2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(bp) “Pursuant to commitment,” with respect to an advance made or other value given by a secured party, means pursuant to the secured party’s obligation, whether or not a subsequent event of default or other event not within the secured party’s control has relieved or may relieve the secured party from its obligation.

(bq) “Record,” except as used in “for record,” “of record,” “record or legal title,” and “record owner,” means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(br) “Registered organization” means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(bs) “Secondary obligor” means an obligor to the extent that:

1. *The obligor’s obligation is secondary; or*
2. *The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.*

(bt) “Secured party” means:

1. *A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;*
2. *A person that holds an agricultural lien;*
3. *A consignor;*
4. *A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;*
5. *A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or*
6. *A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118.*

(bu) “Security agreement” means an agreement that creates or provides for a security interest.

(bv) “Send,” in connection with a record or notification, means:

1. *To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or*
2. *To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1. of this paragraph.*

(bw) “Software” means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(bx) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(by) “Supporting obligation” means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(bz) “Tangible chattel paper” means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(ca) “Termination statement” means an amendment of a financing statement which:

1. *Identifies, by its file number, the initial financing statement to which it relates; and*
2. *Indicates either that it is a termination statement or that the identified financing statement is no longer effective.*

(cb) “Transmitting utility” means a person primarily engaged in the business of:

1. *Operating a railroad, subway, street railway, or trolley bus;*
2. *Transmitting communications electrically, electromagnetically, or by light;*
3. *Transmitting goods by pipeline or sewer; or*
4. *Transmitting or producing and transmitting electricity, steam, gas, or water.*

(2) The following definitions in other articles apply to this article:

“Applicant”	*KRS 355.5-102.*
“Beneficiary”	*KRS 355.5-102.*

"Broker"	*KRS 355.8-102.*
"Certificated security"	*KRS 355.8-102.*
"Check"	*KRS 355.3-104.*
"Clearing corporation"	*KRS 355.8-102.*
"Contract for sale"	*KRS 355.2-106.*
"Customer"	*KRS 355.4-104.*
"Entitlement holder"	*KRS 355.8-102.*
"Financial asset"	*KRS 355.8-102.*
"Holder in due course"	*KRS 355.3-302.*
"Issuer" (with respect to a letter of credit or letter-of-credit right)	*KRS 355.5-102.*
"Issuer" (with respect to a security)	*KRS 355.8-201.*
"Lease"	*KRS 355.2A-103.*
"Lease agreement"	*KRS 355.2A-103.*
"Lease contract"	*KRS 355.2A-103.*
"Leasehold interest"	*KRS 355.2A-103.*
"Lessee"	*KRS 355.2A-103.*
"Lessee in ordinary course of business"	*KRS 355.2A-103.*
"Lessor"	*KRS 355.2A-103.*
"Lessor's residual interest"	*KRS 355.2A-103.*
"Letter of credit"	*KRS 355.5-102.*
"Merchant"	*KRS 355.2-104.*
"Negotiable instrument"	*KRS 355.3-104.*
"Nominated person"	*KRS 355.5-102.*
"Note"	*KRS 355.3-104.*
"Proceeds of a letter of credit"	*KRS 355.5-114.*
"Prove"	*KRS 355.3-103.*
"Sale"	*KRS 355.2-106.*
"Securities account"	*KRS 355.8-501.*
"Securities intermediary"	*KRS 355.8-102.*
"Security"	*KRS 355.8-102.*
"Security certificate"	*KRS 355.8-102.*
"Security entitlement"	*KRS 355.8-102.*
"Uncertificated security"	*KRS 355.8-102.*

(3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 23. KRS 355.9-103 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to

software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(b) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(8) The limitation of the rules in subsections (5), (6), and (7) of this section to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

SECTION 24. KRS 355.9-104 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

SECTION 25. KRS 355.9-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6) of this section, unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

SECTION 26. KRS 355.9-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in Section 168 of this Act.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

SECTION 27. KRS 355.9-107 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under subsection (3) of Section 14 of this Act or otherwise applicable law or practice.

SECTION 28. KRS 355.9-108 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsections (3), (4), and (5) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(2) Except as otherwise provided in subsection (4) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5) of this section, a type of collateral defined in this chapter;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3) of this section, any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(4) Except as otherwise provided in subsection (5) of this section, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in this chapter is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

SUBPART 2. APPLICABILITY OF ARTICLE

SECTION 29. KRS 355.9-109 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsections (3) and (4) of this section, this article applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), as provided in Section 30 of this Act; and

(f) A security interest arising under Section 18 of this Act or Section 165 of this Act.

(2) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(3) This article does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this article;

(b) Another statute of this Commonwealth expressly governs the creation, perfection, priority, or enforcement of a

security interest created by this Commonwealth or a governmental unit of this Commonwealth;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 14 of this Act.

(4) This article does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 73 of this Act applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee, or for workers' compensation benefits payable to an individual;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. Section 80 of this Act applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. Section 86 of this Act applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in Sections 33 and 48 of this Act;

2. Fixtures in Section 74 of this Act;

3. Fixture filings in Sections 92, 93, 103, 107, and 110 of this Act; and

4. Security agreements covering personal and real property in Section 122 of this Act;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds; or

(m) An assignment of a deposit account in a consumer transaction, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds.

SECTION 30. KRS 355.9-110 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5) is subject to this article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if subsection (2)(c) of Section 33 of this Act has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by Article 2 or 2A of this chapter; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

PART 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

SUBPART 1. EFFECTIVENESS AND ATTACHMENT

SECTION 31. KRS 355.9-201 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law, statute, or regulation that establishes a different rule for consumers.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2) of this section, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) of this section has only the effect the statute or regulation specifies.

(4) This article does not:

- *(a) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2) of this section; or*
- *(b) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.*

SECTION 32. KRS 355.9-202 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

SECTION 33. KRS 355.9-203 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) to (9) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- *(a) Value has been given;*
- *(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and*
- *(c) One (1) of the following conditions is met:*
  - *1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;*
  - *2. The collateral is not a certificated security and is in the possession of the secured party under Section 53 of this Act pursuant to the debtor's security agreement;*
  - *3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 170 of this Act pursuant to the debtor's security agreement; or*
  - *4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under Section 24, 25, 26, or 27 of this Act pursuant to the debtor's security agreement.*

(3) Subsection (2) of this section is subject to Section 165 of this Act on the security interest of a collecting bank, Section 18 of this Act on the security interest of a letter-of-credit issuer or nominated person, Section 30 of this Act on a security interest arising under Article 2 or 2A of this chapter, and Section 36 of this Act on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

- *(a) The security agreement becomes effective to create a security interest in the person's property; or*
- *(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.*

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

- *(a) The agreement satisfies subsection (2)(c) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and*
- *(b) Another agreement is not necessary to make a security interest in the property enforceable.*

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Section 55 of this Act and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity

contracts carried in the commodity account.

SECTION 34. KRS 355.9-204 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

- *(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten (10) days after the secured party gives value; or*
- *(b) A commercial tort claim.*

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

SECTION 35. KRS 355.9-205 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest is not invalid or fraudulent against creditors solely because:

- *(a) The debtor has the right or ability to:*
  - *1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;*
  - *2. Collect, compromise, enforce, or otherwise deal with collateral;*
  - *3. Accept the return of collateral or make repossessions; or*
  - *4. Use, commingle, or dispose of proceeds; or*
- *(b) The secured party fails to require the debtor to account for proceeds or replace collateral.*

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

SECTION 36. KRS 355.9-206 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

- *(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and*
- *(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.*

(2) The security interest described in subsection (1) of this section secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

- *(a) The security or other financial asset:*
  - *1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and*
  - *2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and*
- *(b) The agreement calls for delivery against payment.*

(4) The security interest described in subsection (3) of this section secures the obligation to make payment for the delivery.

SUBPART 2. RIGHTS AND DUTIES

SECTION 37. KRS 355.9-207 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (4) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4) of this section, if a secured party has possession of collateral:

- *(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;*
- *(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;*
- *(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and*
- *(d) The secured party may use or operate the collateral:*

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4) of this section, a secured party having possession of collateral or control of collateral under Section 24, 25, 26, or 27 of this Act:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) of this section does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) of this section do not apply.

SECTION 38. KRS 355.9-208 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under subsection (1)(b) of Section 24 of this Act shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under subsection (1)(c) of Section 24 of this Act shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under Section 25 of this Act shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under subsection (4)(b) of Section 168 of this Act or subsection (2) of Section 26 of this Act shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under Section 27 of this Act shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

SECTION 39. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-209:

(1) Except as otherwise provided in subsection (3) of this section, this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under subsection (1) of Section

88 of this Act an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

SECTION 40. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-210:

(1) In this section:

(a) "Request" means a record of a type described in paragraph (b), (c), or (d) of this subsection.

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(2) Subject to subsections (3), (4), (5), and (6) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within fourteen (14) days after receipt.

(4) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

PART 3

PERFECTION AND PRIORITY

SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY

SECTION 41. KRS 355.9-301 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 43 to 46 of this Act, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4) of this section, while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

SECTION 42. KRS 355.9-302 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

SECTION 43. KRS 355.9-303 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

SECTION 44. KRS 355.9-304 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part of this article:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

SECTION 45. KRS 355.9-305 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (3) of this section, the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in subsection (4) of Section 169 of this Act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in subsection (5) of Section 169 of this Act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part of this article:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the

law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

SECTION 46. KRS 355.9-306 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsection (3) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part of this article, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in Section 16 of this Act.

(3) This section does not apply to a security interest that is perfected only under subsection (4) of Section 48 of this Act.

SECTION 47. KRS 355.9-307 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one (1) place of business is located at its place of business.

(c) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(3) Subsection (2) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) of this section does not apply, the debtor is located in the District of Columbia.

(4) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3) of this section.

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) of this subsection applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or (6) of this section notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state

in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one (1) state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part of this article.

SUBPART 2. PERFECTION

SECTION 48. KRS 355.9-308 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section and Section 49 of this Act, a security interest is perfected if it has attached and all of the applicable requirements for perfection in Sections 50 to 56 of this Act have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in Section 50 of this Act have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one (1) method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

SECTION 49. KRS 355.9-309 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in subsection (2) of Section 51 of this Act with respect to consumer goods that are subject to a statute or treaty described in subsection (1) of Section 51 of this Act;

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under Section 165 of this Act;

(8) A security interest of an issuer or nominated person arising under Section 18 of this Act;

(9) A security interest arising in the delivery of a financial asset under subsection (3) of Section 36 of this Act;

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

SECTION 50. KRS 355.9-310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section and subsection (2) of Section 52 of this Act, a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

  (a) That is perfected under subsection (4), (5), (6), or (7) of Section 48 of this Act;

  (b) That is perfected under Section 49 of this Act when it attaches;

  (c) In property subject to a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act;

(d) In goods in possession of a bailee which is perfected under subsection (4)(a) or (b) of Section 52 of this Act;

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under subsection (5), (6), or (7) of Section 52 of this Act;

(f) In collateral in the secured party's possession under Section 53 of this Act;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under Section 53 of this Act;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under Section 54 of this Act;

(i) In proceeds which is perfected under Section 55 of this Act; or

(j) That is perfected under Section 56 of this Act.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

SECTION 51. KRS 355.9-311 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (4) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection (1) of Section 50 of this Act;

(b) KRS Chapter 186A; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in subsection (1) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (4) of this section and Section 53 and subsections (4) and (5) of Section 56 of this Act for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) of this section and subsections (4) and (5) of Section 56 of this Act, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(4) During any period in which collateral subject to a statute specified in subsection (1)(b) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

SECTION 52. KRS 355.9-312 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in subsections (3) and (4) of Section 55 of this Act for proceeds:

(a) A security interest in a deposit account may be perfected only by control under Section 54 of this Act;

(b) And except as otherwise provided in subsection (4) of Section 48 of this Act, a security interest in a letter-of-credit right may be perfected only by control under Section 54 of this Act; and

(c) A security interest in money may be perfected only by the secured party's taking possession under Section 53 of this Act.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the twenty (20) day period specified in subsection (5), (6), or (7) of this section expires, perfection depends upon compliance with this article.

SECTION 53. KRS 355.9-313 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 170 of this Act.

(2) With respect to goods covered by a certificate of title issued by this Commonwealth, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in subsection (4) of Section 56 of this section.

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Section 170 of this Act and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(7) If a person acknowledges that it holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) of this section or subsection (1) of Section 170 of this Act, even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (8) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

SECTION 54. KRS 355.9-314 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under Section 24, 25, 26, or 27 of this Act.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under Section 24, 25, or 27 of this Act when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under Section 26 of this Act from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One (1) of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

SECTION 55. KRS 355.9-315 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this article and in KRS 355.2-403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by Section 76 of this Act; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) of this section when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (4)(a) of this section becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under Section 106 of this Act or is terminated under Section 104 of this Act; or

(b) The twenty-first day after the security interest attaches to the proceeds.

SUBPART 3. PRIORITY

SECTION 56. KRS 355.9-316 IS REPEALED AND REENACTED TO READ AS FOLLOWS::

(1) A security interest perfected pursuant to the law of the jurisdiction designated in subsection (1) of Section 41 of this Act or subsection (3) of Section 45 of this Act remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected

and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this Commonwealth remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under subsection (2) of Section 51 of this Act or Section 53 of this Act are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this Commonwealth; or

(b) The expiration of four (4) months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SECTION 57. KRS 355.9-317 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under Section 62 of this Act; and

(b) Except as otherwise provided in subsection (5) of this section, a person that becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One (1) of the conditions specified in subsection (2)(c) of Section 33 of this Act is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in Sections 60 and 61 of this Act, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

SECTION 58. KRS 355.9-318 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a

debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

SECTION 59. KRS 355.9-319 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part of this article, a perfected security interest held by the consignor would have priority over the rights of the creditor.

SECTION 60. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-320:

(1) Except as otherwise provided in subsection (5) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by subsections (1) and (2) of Section 56 of this Act.

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) of this section do not affect a security interest in goods in the possession of the secured party under Section 53 of this Act.

(6) If any horse of a registered breed, the racing of which is regulated by KRS Chapter 230, or any interest in such a horse (including stallion shares and seasons), is subject to a lien or a security interest and that horse or interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling these horses or interests at public auction, a bona fide purchaser for value of the horse or interest takes title to the horse or interest free and clear of the lien or security interest, and the organization selling the horse or interest is not liable in any manner to the holder of the lien or security interest, except to the extent provided by the Federal Food Security Act, 7 U.S.C. sec. 1631. However, the lien or security interest attaches to the proceeds from the sale to the extent provided in subsection (1)(b) of Section 55 of this Act.

SECTION 61. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-321:

(1) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

SECTION 62. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-322:

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security

interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of subsection (1)(a) of this section:

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under Section 67, 68, 69, 70, or 71 of this Act also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (6) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) to (5) of this section are subject to:

(a) Subsection (7) of this section and the other provisions of this part of this article;

(b) Section 165 of this Act with respect to a security interest of a collecting bank;

(c) Section 18 of this Act with respect to a security interest of an issuer or nominated person; and

(d) Section 30 of this Act with respect to a security interest arising under Article 2 or 2A of this chapter.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

SECTION 63. A NEW SECTION OF ARTICLE 9 0F KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-323:

(1) Except as otherwise provided in subsection (3) of this section, for purposes of determining the priority of a perfected security interest under subsection (1)(a) of Section 62 of this Act, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under Section 49 of this Act when it attaches; or

2. Temporarily under subsection (5), (6), or (7) of Section 52 of this Act; and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Section 49 of this Act or subsection (5), (6), or (7) of Section 52 of this Act.

(2) Except as otherwise provided in subsection (3) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five (45) days after the purchase.

(5) Subsection (4) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

(6) Except as otherwise provided in subsection (7) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five (45) days after the lease contract becomes enforceable.

(7) Subsection (6) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

SECTION 64. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-324:

(1) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in Section 67 of this Act, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in Section 70 of this Act, and, except as otherwise provided in Section 67 of this Act, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Subsections (2)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection (6) of Section 52 of this Act, before the beginning of the twenty (20) day period thereunder.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in Section 67 of this Act, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Subsections (4)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection (6) of Section 52 of this Act, before the beginning of the twenty (20) day period thereunder.

(6) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in Section 67 of

this Act, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), (2), (4), or (6) of this section:

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, subsection (1) of Section 62 of this Act applies to the qualifying security interests.

SECTION 65. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-325:

(1) Except as otherwise provided in subsection (2) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter when the security interest is unperfected.

(2) Subsection (1) of this section subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under subsection (1) of Section 62 of this Act or Section 64 of this Act; or

(b) Arose solely under KRS 355.2-711(3) or 355.2A-508(5).

SECTION 66. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-326:

(1) Subject to subsection (2) of this section, a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under Section 99 of this Act in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under Section 99 of this Act.

(2) The other provisions of this part of this article determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under Section 99 of this Act. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

SECTION 67. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-327:

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under Section 24 of this Act has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4) of this section, security interests perfected by control under Section 54 of this Act rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4) of this section, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under subsection (1)(c) of Section 24 of this Act has priority over a security interest held by the bank with which the deposit account is maintained.

SECTION 68. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-328:

The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under Section 26 of this Act has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under Section 26 of this Act rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under subsection (4)(a) of Section 168 of this Act, the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under subsection (4)(b) of Section 168 of this Act, the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security *entitlements carried or to be carried in the securities account; or*

3. If the secured party obtained control through another person under subsection (4)(c) of Section 168 of this Act, the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in subsection (2)(b) of Section 26 of this Act with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under subsection (1) of Section 53 of this Act and not by control under Section 54 of this Act has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under Section 26 of this Act rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by Sections 62 and 63 of this Act.

SECTION 69. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-329:

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under Section 27 of this Act has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under Section 54 of this Act rank according to priority in time of obtaining control.

SECTION 70. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-330:

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 25 of this Act; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 25 of this Act in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in Section 67 of this Act, a purchaser having priority in chattel paper under subsection (1) or (2) of this section also has priority in proceeds of the chattel paper to the extent that:

(a) Section 62 of this Act provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in subsection (1) of Section 71 of this Act, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

SECTION 71. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-331:

(1) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or

purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8 of this chapter.

(2) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 of this chapter.

(3) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (1) and (2) of this section.

SECTION 72. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-332:

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

SECTION 73. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-333:

(1) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) Whose effectiveness depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

SECTION 74. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-334:

(1) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(2) This article does not prevent creation of an encumbrance upon fixtures under real property law.

(3) In cases not governed by subsections (4) to (8) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(4) Except as otherwise provided in subsection (8) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(a) The security interest is a purchase-money security interest;

(b) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(c) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

1. Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

2. Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(b) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

1. Factory or office machines;

2. Equipment that is not primarily used or leased for use in the operation of the real property; or

3. Replacements of domestic appliances that are consumer goods;

(c) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(d) The security interest is:

1. Created in a manufactured home in a manufactured-home transaction; and

2. Perfected pursuant to a statute described in subsection (1)(b) of Section 51 of this Act.

(6) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner.

(7) The priority of the security interest under subsection (6)(b) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(8) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (5) and (6) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(9) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

SECTION 75. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-335:

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4) of this section, the other provisions of this part of this article determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under subsection (2) of Section 51 of this Act.

(5) After default, subject to Part 6 of this article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

SECTION 76. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-336:

(1) In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) of this section is perfected.

(5) Except as otherwise provided in subsection (6) of this section, the other provisions of this part of this article determine the priority of a security interest that attaches to the product or mass under subsection (3) of this section.

(6) If more than one (1) security interest attaches to the product or mass under subsection (3) of this section, the following rules determine priority:

(a) A security interest that is perfected under subsection (4) of this section has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one (1) security interest is perfected under subsection (4) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

SECTION 77. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-337:

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this Commonwealth issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they *may be subject to security interests not shown on the certificate:*

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under subsection (2) of Section 51 of this Act, after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

SECTION 78. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-338:

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in subsection (2)(e) of Section 107 of this Act which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

SUBPART 4. RIGHTS OF BANK

SECTION 79. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-339:

This article does not preclude subordination by agreement by a person entitled to priority.

SECTION 80. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-340:

(1) Except as otherwise provided in subsection (3) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3) of this section, the application of this article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under subsection (1)(c) of Section 24 of this Act, if the set-off is based on a claim against the debtor.

SECTION 81. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-341:

Except as otherwise provided in subsection (3) of Section 80 of this Act, and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

SECTION 82. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-342:

This article does not require a bank to enter into an agreement of the kind described in subsection (1)(b) of Section 24 of this Act, even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4

RIGHTS OF THIRD PARTIES

SECTION 83. KRS 355.9-401 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section and Sections 88, 89, 90, and 91 of this Act, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

SECTION 84. KRS 355.9-402 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without

more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

SECTION 85. KRS 355.9-403 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "value" has the meaning provided in KRS 355. 3-303(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

- ***(a) For value;***
- ***(b) In good faith;***
- ***(c) Without notice of a claim of a property or possessory right to the property assigned; and***
- ***(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under KRS 355.3-305(1).***

(3) Subsection (2) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under KRS 355.3-305(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

- ***(a) The record has the same effect as if the record included such a statement; and***
- ***(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.***

(5) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4) of this section, this section does not displace law other than this article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

SECTION 86. KRS 355.9-404 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) to (5) of this section, the rights of an assignee are subject to:

- ***(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and***
- ***(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.***

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (4) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) of this section only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 87. KRS 355.9-405 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) to (4) of this section.

(2) Subsection (1) of this section applies to the extent that:

- ***(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or***
- ***(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under subsection (1) of Section 88 of this Act.***

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 88. KRS 355.9-406 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsections (2) to (9) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8) of this section, notification is ineffective under subsection (1) of this section:

- *(a) If it does not reasonably identify the rights assigned;*
- *(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or*
- *(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:*
  - *1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;*
  - *2. A portion has been assigned to another assignee; or*
  - *3. The account debtor knows that the assignment to that assignee is limited.*

(3) Subject to subsection (8) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1) of this section.

(4) Except as otherwise provided in subsection (5) of this section and Sections 89 and 162 of this Act, and subject to subsection (8) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

- *(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or*
- *(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.*

(5) Subsection (4) of this section does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in Sections 89 and 162 of this Act and subject to subsections (8) and (9) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

- *(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or*
- *(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.*

(7) Subject to subsection (8) of this section, an account debtor may not waive or vary its option under subsection (2)(c) of this section.

(8) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 89. KRS 355.9-407 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a term in a lease agreement is ineffective to the extent that it:

- *(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or*
- *(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.*

(2) Except as otherwise provided in subsection (7) of Section 162 of this Act, a term described in subsection (1)(b) of this section is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of subsection (4) of Section 162 of this Act unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

SECTION 90. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-408:

(1) Except as otherwise provided in subsection (2) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300(9), 234.330(10), 243.630(2), 260.730(3), 260.815, 288.460(2), 292.320(2)(b), 294.036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 368.070(2).

(6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated

under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

SECTION 91. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-409:

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) of this section but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

(3) Subsection (1) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

PART 5

FILING

SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

SECTION 92. KRS 355.9-501 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, if the local law of this Commonwealth governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(a) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(b) The office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

SECTION 93. KRS 355.9-502 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsection (2) of this section, a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in subsection (2) of Section 92 of this Act, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) of this section and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(c) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record is recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

SECTION 94. KRS 355.9-503 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) of this section is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subsection (1)(d)2. of this section, names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

SECTION 95. KRS 355.9-504 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to Section 28 of this Act; or

(2) An indication that the financing statement covers all assets or all personal property.

SECTION 96. KRS 355.9-505 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in subsection (1) of Section 51 of this Act, using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part of this article applies to the filing of a financing statement under subsection (1) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under subsection (2) of Section 51 of this Act, but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

SECTION 97. KRS 355.9-506 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A financing statement substantially satisfying the requirements of this part of this article is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with subsection (1) of Section 94 of this Act is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with subsection (1) of Section 94 of this Act, the name provided does not make the financing statement seriously misleading.

(4) For purposes of subsection (2) of Section 99 of this Act, the "debtor's correct name" in subsection (3) of this section means the correct name of the new debtor.

SECTION 98. KRS 355.9-507 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) of this section and Section 99 of this Act, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under Section 97 of this Act.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under Section 97 of this Act:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the change.

SECTION 99. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-508:

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) of this section to be seriously misleading under Section 97 of this Act:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four (4) months after, the new debtor becomes bound under subsection (4) of Section 33 of this Act; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under subsection (4) of Section 33 of this Act unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under subsection (1) of Section 98 of this Act.

SECTION 100. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AT KRS 355.9-509:

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (1) or (2) of this section; or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under subsection (1)(b) of Section 55 of this Act, whether or not the security agreement expressly covers proceeds.

(3) By acquiring collateral in which a security interest or agricultural lien continues under subsection (1)(a) of Section 55

of this Act, a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under subsection (1)(b) of Section 55 of this Act.

(4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by subsection (1) or (3) of Section 104 of this Act, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(5) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (4) of this section.

SECTION 101. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-510:

(1) A filed record is effective only to the extent that it was filed by a person that may file it under Section 100 of this Act.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the six (6) month period prescribed by subsection (4) of Section 106 of this Act is ineffective.

SECTION 102. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-511:

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under subsection (1) of Section 105 of this Act, the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under subsection (2) of Section 105 of this Act, the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

SECTION 103. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-512:

(1) Subject to Section 100 of this Act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(b) If the amendment relates to an initial financing statement filed in a filing office described in subsection (1)(a) of Section 92 of this Act, provides the information specified in subsection (2) of Section 93 of this Act.

(2) Except as otherwise provided in Section 106 of this Act, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

SECTION 104. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-513:

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1) of this section, a secured party shall cause the secured party of record to file the termination statement:

(a) Within one (1) month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within twenty (20) days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1) of this section, within twenty (20) days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in Section 101 of this Act, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 101 of this Act, for purposes of Sections 110(7), 113(1), and 114(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

SECTION 105. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-514:

(1) Except as otherwise provided in subsection (3) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its file number, the initial financing statement to which it relates;

(b) Provides the name of the assignor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under subsection (3) of Section 93 of this Act may be made only by an assignment of record of the mortgage in the manner provided by law of this Commonwealth other than this chapter.

SECTION 106. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-515:

(1) Except as otherwise provided in subsections (2), (5), (6), and (7) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (1) of this section or the thirty (30) year period specified in subsection (2) of this section, whichever is applicable.

(5) Except as otherwise provided in Section 101 of this Act, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which

the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (3) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (4) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under subsection (3) of Section 93 of this Act remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

SECTION 107. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-516:

(1) Except as otherwise provided in subsection (2) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable filing fee is not tendered;

(c) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide a name for the debtor;

2. In the case of an amendment or correction statement, the record:

a. Does not identify the initial financing statement as required by Section 103 or 109 of this Act, as applicable; or

b. Identifies an initial financing statement whose effectiveness has lapsed under Section 106 of this Act;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

4. In the case of a record filed in the filing office described in subsection (1)(a) of Section 92 of this Act, the record does not provide a sufficient description of the real property to which it relates;

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(f) In the case of an assignment reflected in an initial financing statement under subsection (1) of Section 105 of this Act or an amendment filed under subsection (2) of Section 105 of this Act, the record does not provide a name and mailing address for the assignee; or

(g) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by subsection (4) of Section 106 of this Act.

(3) For purposes of subsection (2) of this section:

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 103, 105, or 109 of this Act, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

SECTION 108. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-517:

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

SECTION 109. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-518:

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

SECTION 110. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-519:

(1) For each record filed in a filing office, the filing office shall:

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5) of this subsection.

(2) A file number must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5) of this section, the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this Commonwealth provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under subsection (1) of Section 105 of this Act or an amendment filed under subsection (2) of Section 105 of this Act:

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this Commonwealth provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability:

(a) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the

initial financing statement.

(7) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under Section 106 of this Act with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) to (5) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the record in question.

(9) Subsection (2) of this section does not apply to a filing office described in subsection (1)(a) of Section 92 of this Act.

SECTION 111. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-520:

(1) A filing office shall refuse to accept a record for filing for a reason set forth in subsection (2) of Section 107 of this Act and may refuse to accept a record for filing only for a reason set forth in subsection (2) of Section 107 of this Act.

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than two (2) business days after the filing office receives the record.

(3) A filed financing statement satisfying subsections (1) and (2) of Section 93 of this Act is effective, even if the filing office is required to refuse to accept it for filing under subsection (1) of this section. However, Section 78 of this Act applies to a filed financing statement providing information described in subsection (2)(e) of Section 107 of this Act which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one (1) debtor, this part of this article applies as to each debtor separately.

SECTION 112. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-521:

(1) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format set forth as Form UCC1 and Form UCC1Ad in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in subsection (2) of Section 107 of this Act.

(2) A filing office that accepts written records may not refuse to accept a written record in the form and format set forth as Form UCC3 and Form UCC3Ad in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in subsection (2) of Section 107 of this Act.

SECTION 113. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-522:

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under Section 106 of this Act with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1) of this section.

SECTION 114. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-523:

(1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(a) Note upon the copy the number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act and the date and time of the filing of the record; and

(b) Send the copy to the person.

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act; and

(c) The date and time of the filing of the record.

(3) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:

1. Designates a particular debtor;

2. Has not lapsed under Section 106 of this Act with respect to all secured parties of record; and

3. If the request so states, has lapsed under Section 106 of this Act and a record of which is maintained by the filing office under subsection (1) of Section 113 of this Act;

(b) The date and time of filing of each financing statement; and

(c) The information provided in each financing statement.

(4) In complying with its duty under subsection (3) of this section, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(5) The filing office shall perform the acts required by subsections (1) to (4) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(6) At least weekly, the Secretary of State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part of this article, in every medium from time to time available to the filing office.

SECTION 115. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-524:

Delay by the filing office beyond a time limit prescribed by this part of this article is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

SECTION 116. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-525:

(1) Except as otherwise provided in subsection (4) of this section, the fee for filing and indexing a record under this part of this article is:

(a) Ten dollars ($10) if the record is communicated in writing and consists of one (1) or two (2) pages;

(b) Twenty dollars ($20) if the record is communicated in writing and consists of more than two (2) pages; and

(c) Five dollars ($5) if the record is communicated by another medium authorized by filing-office rule.

(2) The number of names required to be indexed does not affect the amount of the fee in subsection (1) of this section.

(3) The fee for issuing a certificate showing whether there is on file any financing statement naming a particular debtor is five dollars ($5).

(4) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under subsection (3) of Section 93 of this Act. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

SECTION 117. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-526:

(1) The Secretary of State shall promulgate administrative regulations to implement this article as it relates to the Secretary of State. The filing-office administrative regulations must be:

(a) Consistent with this article; and

(b) Promulgated in accordance with KRS Chapter 13A.

(2) To keep the filing-office administrative regulations and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part of this article, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part of this article. The Secretary of State, so far as is consistent with the purposes, policies, and provisions of this article, in promulgating, amending, and repealing filing-office administrative regulations, shall:

(a) Consult with filing offices in other jurisdictions that enact substantially this part of this article; and

(b) Consult the most recent version of the model rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part of this article.

SECTION 118. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-527:

The Secretary of State shall report annually on or before June 30 to the Governor and to the Legislative Research Commission on the operation of the filing office. The report must contain a statement of the extent to which:

(1) The filing-office administrative regulations are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part of this article and the reasons for these variations; and

(2) The filing-office administrative regulations are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

PART 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

SECTION 119. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-601:

(1) After default, a secured party has the rights provided in this part of this article and, except as otherwise provided in Section 120 of this Act, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under Section 24, 25, 26, or 27 of this Act has the rights and duties provided in Section 37 of this Act.

(3) The rights under subsections (1) and (2) of this section are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) of this section and Section 123 of this Act, after default, a debtor and an obligor have the rights provided in this part of this article and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(7) Except as otherwise provided in subsection (3) of Section 125 of this Act, this part of this article imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

SECTION 120. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-602:

Except as otherwise provided in Section 142 of this Act, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Subsection (2)(d)3. of Section 37 of this Act, which deals with use and operation of the collateral by the secured party;

(2) Section 40 of this Act, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Subsection (3) of Section 125 of this Act, which deals with collection and enforcement of collateral;

(4) Subsection (1) of Section 126 of this Act and subsection (3) of Section 133 of this Act to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Subsection (1) of Section 126 of this Act and subsection (4) of Section 133 of this Act to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 127 of this Act to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Subsection (2) of Section 128 and Sections 129, 131, and 132 of this Act, which deal with disposition of collateral;

(8) Subsection (6) of Section 133 of this Act, which deals with calculation of a deficiency or surplus when a disposition is

made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 134 of this Act, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 138, 139, and 140 of this Act, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 141 of this Act, which deals with redemption of collateral;

(12) Section 142 of this Act, which deals with permissible waivers; and

(13) Sections 143 and 144 of this Act, which deal with the secured party's liability for failure to comply with this article.

SECTION 121. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-603:

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in Section 120 of this Act if the standards are not manifestly unreasonable.

(2) Subsection (1) of this section does not apply to the duty under Section 127 of this Act to refrain from breaching the peace.

SECTION 122. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-604:

(1) If a security agreement covers both personal and real property, a secured party may proceed:

  (a) Under this part of this article as to the personal property without prejudicing any rights with respect to the real property; or

  (b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part of this article do not apply.

(2) Subject to subsection (3) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

  (a) Under this part of this article; or

  (b) In accordance with the rights with respect to real property, in which case the other provisions of this part of this article do not apply.

(3) Subject to the other provisions of this part of this article, if a secured party holding a security interest in fixtures has priority over all owners and encumbrances of the real property, the secured party, after default, may remove the collateral from the real property.

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

SECTION 123. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-605:

A secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

  (a) That the person is a debtor or obligor;

  (b) The identity of the person; and

  (c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

  (a) That the person is a debtor; and

  (b) The identity of the person.

SECTION 124. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-606:

For purposes of this part of this article, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

SECTION 125. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-607:

(1) If so agreed, and in any event after default, a secured party:

  (a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under Section 55 of this Act;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under subsection (1)(a) of Section 24 of this Act, may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under subsection (1)(b) or (c) of Section 24 of this Act, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

SECTION 126. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-608:

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under Section 125 of this Act in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (a)3. of this subsection.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under Section 125 of this Act unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

SECTION 127. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-609:

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under

Section 128 of this Act.

(2) A secured party may proceed under subsection (1) of this section:

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

SECTION 128. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-610:

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one (1) or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4) of this section:

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) of this section if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

(7) The acquisition of a repossession title by a secured party shall not be deemed a disposition of collateral under this section.

SECTION 129. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-611:

(1) In this section, "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4) of this section, a secured party that disposes of collateral under Section 128 of this Act shall send to the persons specified in subsection (3) of this section a reasonable authenticated notification of disposition.

(3) To comply with subsection (2) of this section, the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, ten (10) days before the notification date, held a security interest in the *collateral perfected by compliance with a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act.*

(4) Subsection (2) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subsection (3)(c)2. of this section if:

- *(a) Not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (3)(c)2. of this section; and*
- *(b) Before the notification date, the secured party:*
  - *1. Did not receive a response to the request for information; or*
  - *2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.*

SECTION 130. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-612:

(1) Except as otherwise provided in subsection (2) of this section, whether a notification is sent within a reasonable time is a question of fact.

(2) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

SECTION 131. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-613:

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

- *(a) Describes the debtor and the secured party;*
- *(b) Describes the collateral that is the subject of the intended disposition;*
- *(c) States the method of intended disposition;*
- *(d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and*
- *(e) States the time and place of a public disposition or the time after which any other disposition is to be made.*

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) of this section are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) of this section are sufficient, even if the notification includes:

- *(a) Information not specified by that subsection; or*
- *(b) Minor errors that are not seriously misleading.*

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in subsection (3) of Section 132 of this Act, when completed, each provides sufficient information:

"NOTIFICATION OF DISPOSITION OF COLLATERAL

To: <Name of debtor, obligor, or other person to which the notification is sent>

From: <Name, address, and telephone number of secured party>

Name of Debtor(s): <Include only if debtor(s) are not an addressee>

<For a public disposition:>

We will sell <or lease or license, as applicable> the <describe collateral> <to the highest qualified bidder> in public as follows:

Day and Date:

Time:

Place:

<For a private disposition:>

We will sell <or lease or license, as applicable> the <describe collateral> privately sometime after <day and date>.

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell <or lease or license, as applicable> <for a charge of $...... >. You may request an accounting by calling us at <telephone number>".

SECTION 132. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-614:

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(a) The information specified in subsection (1) of Section 131 of this Act;

(b) A description of any liability for a deficiency of the person to which the notification is sent;

(c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 141 of this Act is available; and

(d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

"<Name and address of secured party>

<Date>

NOTICE OF OUR PLAN TO SELL PROPERTY

<Name and address of any obligor who is also a debtor>

Subject: <Identification of Transaction>

We have your . . . . . <describe collateral>, because you broke promises in our agreement.

<For a public disposition:>

We will sell . . . . . <describe collateral> at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: ....
Time: ....
Place: ....

You may attend the sale and bring bidders if you want.

<For a private disposition:>

We will sell . . . . . <describe collateral> at private sale sometime after . . . . . <date>. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you . . . . . <will or will not, as applicable> still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at . . . . . <telephone number>.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at . . . . . <telephone number> <or write us at . . . . . <secured party's address> and request a written explanation. <We will charge you $. . . . . for the explanation if we sent you another written explanation of the amount you owe us within the last six (6) months.>

If you need more information about the sale call us at . . . . . <telephone number> <or write us at . . . . . <secured party's address>>.

We are sending this notice to the following other people who have an interest in . . . . . <describe collateral> or who owe money under your agreement:

<Names of all other debtors and obligors, if any>"

(4) A notification in the form of subsection (3) of this section is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) of this section is sufficient, even if it includes errors in information not required by subsection (1) of this section, unless the error is misleading with respect to rights arising under this article.

(6) If a notification under this section is not in the form of subsection (3) of this section, law other than this article determines the effect of including information not required by subsection (1) of this section.

SECTION 133. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS

AND TO BE NUMBERED AS KRS 355.9-615:

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under Section 128 of this Act in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (1)(c) of this section.

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under Section 128 of this Act unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) of this section and permitted by subsection (3) of this section:

(a) Unless subsection (1)(d) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part of this article to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

SECTION 134. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-616:

(1) In this section:

(a) "Explanation" means a writing that:

1. States the amount of the surplus or deficiency;

2. Provides an explanation in accordance with subsection (3) of this section of how the secured party calculated the surplus or deficiency;

3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b)"Request" means a record:

1. Authenticated by a debtor or consumer obligor;

2. Requesting that the recipient provide an explanation; and

3. Sent after disposition of the collateral under Section 128 of this Act.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Section 133 of this Act, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

2. Within fourteen (14) days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subsection (1)(a)2. of this section, a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a) of this subsection; and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (2)(a) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

SECTION 135. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-617:

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1) of this section, even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1) of this section, the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

SECTION 136. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-618:

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1) of this section:

(a) Is not a disposition of collateral under Section 128 of this Act; and

(b) Relieves the secured party of further duties under this article.

SECTION 137. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-619:

(1) In this section, "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) of this section or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

SECTION 138. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-620:

(1) Except as otherwise provided in subsection (7) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3) of this section;

(b) The secured party does not receive, within the time set forth in subsection (4) of this section, a notification of objection to the proposal authenticated by:

1. A person to which the secured party was required to send a proposal under Section 139 of this Act; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section 142 of this Act.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) of this section are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

3. Does not receive a notification of objection authenticated by the debtor within twenty (20) days after the proposal is sent.

(4) To be effective under subsection (1)(b) of this section, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to Section 139 of this Act, within twenty (20) days after notification was sent to that person; and

(b) In other cases:

1. Within twenty (20) days after the last notification was sent pursuant to Section 139 of this Act; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3) of this section.

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section 128 of this Act within the time specified in subsection (6) of this section if:

(a) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5) of this section, the secured party shall dispose of the collateral:

(a) Within ninety (90) days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

SECTION 139. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS 355.9-621:

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, ten (10) days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act.

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1) of this section.

SECTION 140. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-622:

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1) of this section, even if the secured party fails to comply with this article.

SECTION 141. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-623:

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

- *(a) Fulfillment of all obligations secured by the collateral; and*
- *(b) The reasonable expenses and attorney's fees described in subsection (1)(a) of Section 133 of this Act.*

(3) A redemption may occur at any time before a secured party:

- *(a) Has collected collateral under Section 125 of this Act;*
- *(b) Has disposed of collateral or entered into a contract for its disposition under Section 128 of this Act; or*
- *(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under Section 140 of this Act.*

SECTION 142. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-624:

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under Section 129 of this Act only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under subsection (5) of Section 138 of this Act only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under Section 141 of this Act only by an agreement to that effect entered into and authenticated after default.

SUBPART 2. NONCOMPLIANCE WITH ARTICLE

SECTION 143. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-625:

(1) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(2) Subject to subsections (3), (4), and (6) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(3) Except as otherwise provided in Section 146 of this Act:

- *(a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) of this section for its loss; and*
- *(b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part of this article may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.*

(4) A debtor whose deficiency is eliminated under Section 144 of this Act may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section 144 of this Act may not otherwise recover under subsection (2) of this section for noncompliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(5) In addition to any damages recoverable under subsection (2) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500) in each case from a person that:

- *(a) Fails to comply with Section 38 of this Act;*
- *(b) Fails to comply with Section 39 of this Act;*
- *(c) Files a record that the person is not entitled to file under subsection (1) of Section 100 of this Act;*
- *(d) Fails to cause the secured party of record to file or send a termination statement as required by subsection (1) or (3) of Section 104 of this Act;*
- *(e) Fails to comply with subsection (2)(a) of Section 134 of this Act and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or*
- *(f) Fails to comply with subsection (2)(b) of Section 134 of this Act.*

(6) A debtor or consumer obligor may recover damages under subsection (2) of this section and, in addition, five hundred dollars ($500) in each case from a person that, without reasonable cause, fails to comply with a request under Section 40 of this Act. A recipient of a request under Section 40 of this Act which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under Section 40 of this Act, the secured party may claim a security interest only as shown in the list or statement included in the

request as against a person that is reasonably misled by the failure.

SECTION 144. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-626:

(1) In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part of this article.

(c) Except as otherwise provided in Section 146 of this Act, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

1. The proceeds of the collection, enforcement, disposition, or acceptance; or

2. The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(d) For purposes of paragraph (c)2. of this subsection, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under subsection (6) of Section 133 of this Act, the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(2) The limitation of the rules in subsection (1) of this section to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

SECTION 145. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-627:

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

SECTION 146. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-628:

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under subsection (3)(b) of Section 143 of this Act for its failure to comply with Section 134 of this Act.

(5) A secured party is not liable under subsection (3)(b) of Section 143 of this Act more than once with respect to any one (1) secured obligation.

PART 7

TRANSITION

SECTION 147. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS 355.9-701:

This article takes effect on July 1, 2001.

SECTION 148. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-702:

(1) Except as otherwise provided in this part of this article, the revision of Article 9 in this Act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this Act takes effect.

(2) Except as otherwise provided in subsection (3) of this section and Sections 149 to 155 of this Act:

(a) Transactions and liens that were not governed by the former Article 9 of this chapter, were validly entered into or created before the revision of Article 9 in this Act takes effect, and would be subject to the revision of Article 9 in this Act if they had been entered into or created after this Act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this Act takes effect; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by the revision of Article 9 in this Act or by the law that otherwise would apply if this Act had not taken effect.

(3) The revision of Article 9 in this Act does not affect an action, case, or proceeding commenced before this Act takes effect.

SECTION 149. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-703:

(1) A security interest that is enforceable immediately before this Act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under the revision of Article 9 in this Act if, when this Act takes effect, the applicable requirements for enforceability and perfection under the revision of Article 9 in this Act are satisfied without further action.

(2) Except as otherwise provided in Section 151 of this Act, if, immediately before this Act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under the revision of Article 9 in this Act are not satisfied when this Act takes effect, the security interest:

(a) Is a perfected security interest for one (1) year after this Act takes effect;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under Section 33 of this Act before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under the revision of Article 9 in this Act are satisfied before the year expires.

SECTION 150. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-704:

A security interest that is enforceable immediately before this Act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one (1) year after this Act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under Section 33 of this Act when this Act takes effect or within one (1) year thereafter; and

(3) Becomes perfected:

(a) Without further action, when this Act takes effect if the applicable requirements for perfection under the revision of Article 9 in this Act are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

SECTION 151. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-705:

(1) If action, other than the filing of a financing statement, is taken before this Act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this Act takes effect, the action is effective to perfect a security interest that attaches under the revision of Article 9 in this Act within one (1) year after this Act takes effect. An attached security interest becomes unperfected one (1) year after this Act takes effect unless the security interest becomes a perfected security interest under the revision of Article 9 in this Act before the expiration of that period.

(2) The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under the revision of Article 9 in this Act.

(3) The revision of Article 9 in this Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103, or law determining the place of filing as provided in the former KRS 355.9-401. However, except as otherwise provided in subsections (4) and (5) of this section and Section 152 of this Act, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) June 30, 2006.

(4) The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this article, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

(5) Subsection (3)(b) of this section applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103 only to the extent that Part 3 of this article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this Act takes effect and a continuation statement filed after this Act takes effect is effective only to the extent that it satisfies the requirements of Part 5 of this article for an initial financing statement.

SECTION 152. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-706:

(1) The filing of an initial financing statement in the office specified in Section 92 of this Act continues the effectiveness of a financing statement filed before this Act takes effect if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under the revision of Article 9 in this Act;

(b) The pre-effective-date financing statement was filed in an office in another state or another office in this Commonwealth; and

(c) The initial financing statement satisfies subsection (3) of this section.

(2) The filing of an initial financing statement under subsection (1) of this section continues the effectiveness of the pre-effective-date financing statement:

(a) If the initial financing statement is filed before this Act takes effect, for the period provided in the former KRS 355.9-403 with respect to a financing statement; and

(b) If the initial financing statement is filed after this Act takes effect, for the period provided in Section 106 of this Act with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1) of this section, an initial financing statement must:

(a) Satisfy the requirements of Part 5 of this article for an initial financing statement;

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective-date financing statement remains effective.

(4) When a secured party files an initial financing statement with the Secretary of State under subsection (1) of this section or under Section 153 of this Act, the secured party may send a copy of the initial financing statement to the county clerk of the county in which the pre-effective-date financing statement was filed, and, additionally, may send to the county clerk copies of any continuation statement subsequently filed with the Secretary of State that relates to an initial financing statement filed under subsection (1) of this section or under Section 153 of this Act. The secured party's election not to send a copy of an initial financing statement or a continuation statement to the county clerk does not affect in any way the perfection of the secured party's security interest. The county clerk shall append to the pre-effective-date financing statement the copy of any initial financing statement or continuation statement received from a secured party and shall retain the entire file as required by Section 156 of this Act.

SECTION 153. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-707:

(1) In this section, "pre-effective-date financing statement" means a financing statement filed before the effective date of this Act.

(2) After the effective date of this Act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4) of this section, if the law of this Commonwealth governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the effective date of this Act only if:

(a) The pre-effective-date financing statement and an amendment are filed in the office specified in Section 92 of this Act;

(b) An amendment is filed in the office specified in Section 92 of this Act concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection (3) of Section 152 of this Act; or

(c) An initial financing statement that provides the information as amended and satisfies subsection (3) of Section 152 of this Act is filed in the office specified in Section 92 of this Act.

(4) If the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under subsections (4) and (6) of Section 151 of this Act or Section 152 of this Act.

(5) Whether or not the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this Commonwealth may be terminated after the effective date of this Act by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection (3) of Section 152 of this Act has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 of this Article as the office in which to file a financing statement.

SECTION 154. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-708:

A person may file an initial financing statement or a continuation statement under this part of this article if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part of this article:

(a) To continue the effectiveness of a financing statement filed before this Act takes effect; or

(b) To perfect or continue the perfection of a security interest.

SECTION 155. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-709:

(1) The revision of Article 9 in this Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this Act takes effect, the former Article 9 of this chapter determines

priority.

(2) For purposes of subsection (1) of Section 62 of this Act, the priority of a security interest that becomes enforceable under Section 33 of this Act dates from the time this Act takes effect if the security interest is perfected under the revision of Article 9 in this Act by the filing of a financing statement before this Act takes effect which would not have been effective to perfect the security interest under the former Article 9 of this chapter. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

SECTION 156. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-710:

(1) To compensate the county clerks for the services provided under this section and under subsection (4) of Section 152 of this Act, the Secretary of State shall distribute to the county clerks of this Commonwealth an amount equal to one-half (1/2) the fees collected by the Secretary of State under subsection (1) of Section 116 of this Act. The Secretary of State shall distribute the fees equal to, as nearly as possible, the percentage that the fees collected by each county clerk under Part 4 of the former Article 9 for the calendar year 1999 bear to the total fees collected thereunder by all county clerks for the calendar year 1999. The percentage allocations shall be based upon the fee collection information for calendar year 1999 provided by each county clerk to the Secretary of State on or prior to April 30, 2001. The Secretary of State shall distribute the percentage allocations from time to time, as the Secretary of State may so determine, but no less frequently than semiannually and commencing no later than March 30, 2002.

(2) A county clerk who receives a statement tendered by a secured party under Part 4 of the former Article 9, prior to the effective date of this Act, that has not been filed or indexed on the effective date of this Act, shall file and index the statement as soon as practicable.

(3) Every county clerk shall append to the pre-effective-date financing statement the copies of any initial financing statement or continuation statement received from a secured party under subsection (4) of Section 152 of this Act.

(4) The county clerk shall maintain all records filed under Part 4 of the former Article 9 and subsection (3) of this section until the later of:

  (a) One (1) year after the lapse of the initial financing statement;

  (b) July 1, 2008; or

  (c) Such other record-retention requirement as may be applicable under other Kentucky law or administrative regulations.

(5) The county clerk shall respond to requests for information with respect to records maintained under this Article in accordance with subsections (3) and (4) of Section 114 of this Act and may charge the fee for issuing certificates authorized in Section 116 of this Act.

(6) When Internet access is available through the AVIS system or its successor, every county clerk shall provide a means within his or her office by which the Secretary of State's filing system for this Article can be searched and through which electronic filings under this Article can be made with the Secretary of State. This subsection shall not be construed to require a secured party to file through the means provided by a county clerk. The county clerk shall neither be required to conduct a search of the Secretary of State's filing system nor to issue a certificate as to the contents of the system.

SEGMENT D

CONFORMING AMENDMENTS FOR REVISED ARTICLE 9

Section 157. KRS 355.1-201 is amended to read as follows:

Subject to additional definitions contained in the subsequent articles of this chapter which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (KRS 355.1-205 and 355.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (KRS 355.1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person ***that buys goods***~~[who]~~ in good faith,~~[and]~~ without knowledge that the sale ***violates***~~[to him is in violation of]~~ the~~[ownership]~~ rights~~[or security interest]~~ of ***another person***~~[a third party]~~ in the goods***, and***~~[buys]~~ in ***the*** ordinary course from a person***, other than a pawnbroker,*** in the business of selling goods of that kind~~[but does not include a pawnbroker]~~. ***A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person***~~[All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons]~~ in the business of selling goods of that kind. ***A buyer in ordinary course of business***~~["Buying"]~~ may ***buy***~~[be]~~ for cash,~~[or]~~ by exchange of other property or on secured or unsecured credit, and ***may acquire***~~[includes receiving]~~ goods or documents of title under a preexisting contract for sale~~[but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt]~~. ***Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this chapter may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.***

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when

(a) He has actual knowledge of it; or

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) It comes to his attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (See KRS 355.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, ***security interest,*** issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation.~~[The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest."]~~ The term also includes any interest of a ***consignor and a*** buyer of accounts***,***~~[or]~~ chattel paper***, a payment intangible, or a promissory note in a transaction that***~~[which]~~ is subject to Article 9 ***of this chapter***. The special property interest of a buyer of goods on identification of those goods to a contract for sale under KRS 355.2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Article 9 ***of this chapter. Except as otherwise provided in KRS 355.2-505, the right of a seller or lessor of goods under Article 2 or 2A of this chapter to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9 of this chapter. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest."***~~[Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales (KRS 355.2-326).]~~

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee; and

(a) The original term of the lease is equal to or greater than the remaining economic life of the goods;

(b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that:

(a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;

(c) The lessee has an option to renew the lease or to become the owner of the goods;

(d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(e) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value," except as otherwise provided with respect to negotiable instruments and bank collections (KRS 355.3-303, 355.4-210, and 355.4-211) a person gives "value" for rights if he acquires them

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) As security for or in total or partial satisfaction of a pre-existing claim; or

(c) By accepting delivery pursuant to a pre-existing contract for purchase; or

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Section 158. KRS 355.2-103 is amended to read as follows:

(1) In this article unless the context otherwise requires

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance." KRS 355.2-606.
"Banker's credit." KRS 355.2-325.
"Between merchants." KRS 355.2-104.
"Cancellation." KRS 355.2-106 (4).
"Commercial unit." KRS 355.2-105.
"Confirmed credit." KRS 355.2-325.
"Conforming to contract." KRS 355.2-106.
"Contract for sale." KRS 355.2-106.
"Cover." KRS 355.2-712.
"Entrusting." KRS 355.2-403.
"Financing agency." KRS 355.2-104.
"Future goods." KRS 355.2-105.
"Goods." KRS 355.2-105.
"Identification." KRS 355.2-501.
"Installment contract." KRS 355.2-612.
"Letter of credit." KRS 355.2-325.
"Lot." KRS 355.2-105.
"Merchant." KRS 355.2-104.
"Overseas." KRS 355.2-323.
"Person in position of seller." KRS 355.2-707.
"Present sale." KRS 355.2-106.
"Sale." KRS 355.2-106.
"Sale on approval." KRS 355.2-326.
"Sale or return." KRS 355.2-326.
"Termination." KRS 355.2-106.

(3) The following definitions in other articles apply to this article:

"Check." KRS 355.3-104.
"Consignee." KRS 355.7-102.
"Consignor." KRS 355.7-102.
"Consumer goods." ***Section 22 of this Act***~~[KRS 355.9-109]~~.
"Dishonor." KRS ***355.3-502***~~[355.3-507]~~.
"Draft." KRS 355.3-104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 159. KRS 355.2-210 is amended to read as follows:

(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) ***Except as otherwise provided in Section 88 of this Act,*** unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) ***The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but:***

(a) The seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer; and

(b) A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)[~~(4)~~]An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)[~~(5)~~]The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (KRS 355.2-609).

Section 160. KRS 355.2-326 is amended to read as follows:

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) [~~Except as provided in subsection (3),~~]Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3)[~~Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) complies with the filing provisions of the article on secured transactions (Article 9).~~

~~(4)~~] Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (KRS 355.2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (KRS 355.2-202).

Section 161. KRS 355.2-502 is amended to read as follows:

(1) Subject to ***subsections***[~~subsection~~] (2) ***and (3) of this section*** and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if***:***

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by contract; or

(b) In all cases, the seller becomes insolvent within ten (10) days after receipt of the first installment on their price.

(2) ***The buyer's right to recover the goods under subsection (1)(a) of this section vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.***

(3) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.

Section 162. KRS 355.2-716 is amended to read as follows:

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. ***In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.***

Section 163. KRS 355.2A-103 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

1. The lessor does not select, manufacture, or supply the goods;

2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

3. One of the following occurs:

a. The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

b. The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

c. The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

d. If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions." KRS 355.2A-310(1).

"Construction mortgage." KRS 355.2A-309(1)(d).

"Encumbrance." KRS 355.2A-309(1)(e).

"Fixtures." KRS 355.2A-309(1)(a).

"Fixture filing." KRS 355.2A-309(1)(b).

"Purchase money lease." KRS 355.2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account." ***Subsection (1)(b) of Section 22 of this Act***[~~KRS 355.9-106~~].

"Between merchants." KRS 355.2-104(3).

"Buyer." KRS 355.2-103(1)(a).

"Chattel paper." ***Subsection (1)(k) of Section 22 of this Act***[~~KRS 355.9-105(1)(b)~~].

"Consumer goods." ***Subsection (1)(w) of Section 22 of this Act***[~~KRS 355.9-109(1)~~].

"Document." ***Subsection (1)(ad) of Section 22 of this Act***[~~KRS 355.9-105(1)(f)~~].

"Entrusting." KRS 355.2-403(3).

"General ***intangible." Subsection (1)(ap) of Section 22 of this Act***[~~intangibles." KRS 355.9-106~~].

"Good faith." KRS 355.2-103(1)(b).

"Instrument." ***Subsection (1)(au) of Section 22 of this Act***[~~KRS 355.9-105(1)(j)~~].

"Merchant." KRS 355.2-104(1).

"Mortgage." ***Subsection (1)(bc) of Section 22 of this Act***[~~KRS 355.9-105(1)(k)~~].

"Pursuant to commitment." ***Subsection (1)(bp) of Section 22 of this Act***[~~KRS 355.9-105(1)(l)~~].

"Receipt." KRS 355.2-103(1)(c).

"Sale." KRS 355.2-106(1).

"Sale on approval." KRS 355.2-326.

"Sale or return." KRS 355.2-326.

"Seller." KRS 355.2-103(1)(d).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 164. KRS 355.2A-303 is amended to read as follows:

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of ***subsection (1)(c) of Section 29 of this Act***[~~KRS 355.9-102(1)(b)~~].

(2) Except as provided in ***subsection***[~~subsections~~] (3) ***of this section*** and ***Section 89 of this Act***[~~(4)~~], a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection ***(4) of this section***[~~(5)~~], but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3)[~~ A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~(4)~~] A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5).

(4)[~~(5)~~]Subject to ***subsection***[~~subsections~~] (3) ***of this section*** and ***Section 89 of this Act***[~~(4)~~]:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in KRS 355.2A-501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)[~~(6)~~]A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)[~~(7)~~]Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)[~~(8)~~]In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 165. KRS 355.2A-307 is amended to read as follows:

(1) Except as otherwise provided in KRS 355.2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in ***subsection***[~~subsections~~] (3)[~~ and (4)~~] of this section and in KRS 355.2A-306 and 355.2A-

308, a creditor of a lessor takes subject to the lease contract unless~~[;~~

~~(a)~~] the creditor holds a lien that attached to the goods before the lease contract became enforceable~~[;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (KRS 355.9-303) before the lease contract became enforceable~~].

(3) ***Except as otherwise provided in Sections 57, 61, and 63 of this Act, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor***~~[A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (KRS 355.9-303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five (45) days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period~~].

Section 166. KRS 355.2A-309 is amended to read as follows:

(1) In this section:

(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) A "fixture filing" is the filing, in the office where a ***record of a*** mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of ***subsections (1) and (2) of Section 93 of this Act***~~[KRS 355.9-402(5)]~~;

(c) A lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) A mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this article of ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten (10) days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) The interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under

a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may:

(a) On default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this article; or

(b) If necessary to enforce other rights and remedies of the lessor or lessee under this article;

remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the article on secured transactions (Article 9).

Section 167. KRS 355.4-210 is amended to read as follows:

(1) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(a) In case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(b) In case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

(c) If it makes an advance on or against the item.

(2) If credit given for several items received at one (1) time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9 of this chapter, but:

(a) No security agreement is necessary to make the security interest enforceable ***(subsection (2)(c)1. of Section 33 of this Act)***~~[(KRS 355.9-203(1)(a))]~~; and

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 168. KRS 355.7-503 is amended to read as follows:

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (KRS 355.7-403) or with power of disposition under this chapter (KRS 355.2-403 and ***Section 60 of this Act***~~[355.9-307]~~) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under KRS 355.7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Section 169. KRS 355.8-103 is amended to read as follows:

(1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this article and not by Article 3 of this chapter, even though it also meets the requirements of that article. However, a negotiable instrument governed by Article 3 of this chapter is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in ***subsection (1)(o) of Section 22 of this Act***[~~KRS 355.9-115~~], is not a security or a financial asset.

Section 170. KRS 355.8-106 is amended to read as follows:

(1) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

- (a) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or
- (b) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(3) A purchaser has "control" of an uncertificated security if:

- (a) The uncertificated security is delivered to the purchaser; or
- (b) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(4) A purchaser has "control" of a security entitlement if:

- (a) The purchaser becomes the entitlement holder;[~~ or~~]
- (b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder***; or***
- ***(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser***.

(5) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(6) A purchaser who has satisfied the requirements of subsection (3)[~~(b)~~] or (4)[~~(b)~~] of this section has control, even if the registered owner in the case of subsection (3)[~~(b)~~] of this section or the entitlement holder in the case of subsection (4)[~~(b)~~] of this section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(7) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (3)(b) or (4)(b) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Section 171. KRS 355.8-110 is amended to read as follows:

(1) The local law of the issuer's jurisdiction, as specified in subsection (4) of this section, governs:

- (a) The validity of a security;
- (b) The rights and duties of the issuer with respect to registration of transfer;
- (c) The effectiveness of registration of transfer by the issuer;
- (d) Whether the issuer owes any duties to an adverse claimant to a security; and

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5) of this section, governs:

(a) Acquisition of a security entitlement from the securities intermediary;

(b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(3) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this ***Commonwealth***~~[State]~~ may specify the law of another jurisdiction as the law governing the matters specified in subsection (1)(b) to (e) of this section.

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder ***governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part of this article, this article, or Article 9 of this chapter***~~[specifies that it is governed by the law of a particular jurisdiction]~~, that jurisdiction is the securities intermediary's jurisdiction.

(b) If ***paragraph (a) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.***

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the securities intermediary and its entitlement holder ***governing the securities account***~~[does not specify the governing law as provided in paragraph (a) of this subsection, but]~~ expressly ***provides***~~[specifies]~~ that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)~~[(c)]~~ If ***none of the preceding paragraphs of this subsection applies***~~[an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection]~~, the securities intermediary's jurisdiction is the jurisdiction in which~~[is located]~~ the office identified in an account statement as the office serving the entitlement holder's account ***is located***.

(e)~~[(d)]~~ If ***none of the preceding paragraphs of this subsection applies***~~[an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c) of this subsection]~~, the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary ***is located***.

(6) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

Section 172. KRS 355.8-301 is amended to read as follows:

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ***is:***

1. Registered in the name of the purchaser;

2. Payable to the order of the purchaser; or

3. ~~[has been]~~Specially indorsed to the purchaser by an effective indorsement ***and has not been indorsed to the securities intermediary or in blank***.

(2) Delivery of an uncertificated security to a purchaser occurs when:

(a) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(b) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Section 173. KRS 355.8-302 is amended to read as follows:

(1) Except as otherwise provided in subsections (2) and (3) of this section, ***a purchaser***~~[upon delivery]~~ of a certificated or uncertificated security~~[to a purchaser, the purchaser]~~ acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 174. KRS 355.8-510 is amended to read as follows:

(1) ***In a case not covered by the priority rules in Article 9 of this chapter or the rules stated in subsection (3) of this section,*** an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under KRS 355.8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in Article 9 of this chapter, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. ***Except as otherwise provided in subsection (4) of this section,*** purchasers who have control rank ***according to priority in time of:***

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under subsection (4)(a) of Section 170 of this Act;

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under subsection (4)(b) of Section 170 of this Act; or

(c) If the purchaser obtained control through another person under subsection (4)(c) of Section 170 of this Act, the time on which priority would be based under this subsection if the other person were the secured party.

(4) ~~[equally, except that]~~A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 175. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	$8.00
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00
Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	8.00

Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	8.00
Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	8.00
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	8.00
Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one (1) motor vehicle	8.00
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
[~~Issuance of a certification as provided in KRS 355.9-407~~	~~5.00~~
~~Certified copy of financing statement or statement of assignment as provided in KRS 355.9-407~~	~~5.00~~]
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	15.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00

Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers ..	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	200.00
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00
Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Filing declaration of intent to be a write-in candidate for municipal office in a city of the fifth or sixth class.	20.00
Recording wills or other probate documents under KRS 394.300	8.00
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set,	

provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00

Section 176. KRS 186.045 is amended to read as follows:

(1)[~~Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the security interest was noted on the certificate of title. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the title lien statement. The county clerk shall enter the assignment of the perfected security interest into the automated vehicle information system. For this service the county clerk shall collect a fee pursuant to KRS 64.012.~~

~~(2)~~] Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 to 355.9-507 or similar proceedings, the secured party shall, within ten (10) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing such security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on such title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(2)[~~(3)~~]Upon presentation of the owner's title showing such security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If such record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If such record of termination has not been entered into the automated system, in no case shall the county clerk of the county other than where the termination statement was delivered, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(3)[~~(4)~~]Whenever any secured party repossesses a vehicle titled in this ***Commonwealth***[~~state~~], for which a security interest is in existence at the time of repossession, and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, must be shown on the title issued by the clerk unless the prior secured party has discharged such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(4)[~~(5)~~]Whenever any vehicle brought into this ***Commonwealth***[~~state~~] is required to be titled in this ***Commonwealth***[~~state~~] and such vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not

apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(5)[~~(6)~~]The fees provided for in this section are in addition to any state fee provided for by law.

(6)[~~(7)~~]Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(7)[~~(8)~~]The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 must be obtained from the clerk by the owner of the vehicle.

(8)[~~(9)~~]Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly titled herein under KRS Chapter 186A and the security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 177. KRS 186A.195 is amended to read as follows:

(1) As used in this chapter, a title lien statement is a document to be submitted by the secured party to the county clerk. Upon submission of the title lien statement, the county clerk shall use the information contained therein to note the security interest on the certificate of title. The county clerk may make title lien statements available to the general public. However, public availability of such statements is not necessary or effective to perfect a security interest in property required to be registered or titled in accordance with this chapter.

(2) If a title lien statement and the required fees accompany the application for first title of any property in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(6) into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190(6). The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(3) If a title lien statement and the required fees are not received at the time of application for first title of any property in the name of the owner due to owner's residency in another county, or if the form prescribed by KRS 186A.060 indicates a pending lien but the title lien statement does not accompany the application for title, the county clerk shall enter into the Automated Vehicle Information System (AVIS) the name and address of the lienholder and the county where the lien is to be noted or that a lien is pending. The clerk shall indicate a title is not to be issued until the lien has been noted and fees, according to KRS 186A.190, paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the title lien statement and fees contained in KRS 186A.190, enter into the Automated Vehicle Information System (AVIS) the date of lien notation and the notation number, thus enabling the system to produce the title in Frankfort.

(4) Should a certificate of title be issued after the thirty (30) day period has expired without the notation of a security interest thereon, or should there be no provision made for a lien to be noted in the county of residence of the debtor within thirty (30) days and the title issued within that time, the secured party shall request from the debtor, and the debtor shall submit to the secured party, the certificate of title. The secured party shall submit the certificate of title along with the title lien statement to the county clerk of the county of the debtor's residence. The county clerk shall then enter the information required by KRS 186A.190(6) into the Automated Vehicle Information System (AVIS) and note on the certificate of title in the appropriate section the information described in that section. Following the notation of the appropriate information on the certificate of title, the county clerk shall return the title to the debtor.

(5) The security interest noted on the certificate of title shall be deemed perfected at the time the security interest attaches (KRS 355.9-203) if the secured party tenders the required fees and submits a properly completed title lien statement and application for first title or, in the case of property previously titled in the name of its debtor, the certificate of title to the appropriate county clerk within ***twenty (20)***[~~ten (10)~~] days of attachment. Otherwise, the security interest shall be deemed perfected at the time that such fees are tendered and such documents are submitted to the appropriate county clerk.

Section 178. KRS 186A.200 is amended to read as follows:

(1) With respect to a vehicle previously titled in the name of its debtor, the secured party shall, within ***twenty (20)***[~~fifteen (15)~~] days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one (1) prior lien indicated thereon, and present to the county clerk the certificate of title, which the secured party shall have the right to obtain from the debtor, together with the title lien statement and the required fees in KRS 186A.190 to the county clerk.

(2) For failure to present both the title and title lien statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by KRS 186A.190(6) into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by KRS 186A.190(6).

SECTION 179. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Before a party possessing a security interest or lien against an equine interest that has been sold without the debt to the party being discharged may bring an action against the purchaser or selling agent of the equine interest, the secured party shall pursue a remedy against the debtor to the point where a judgment is rendered on the merits or the suit is dismissed with prejudice.

SEGMENT E

NONCODIFIED MATERIAL

Section 180. The following KRS sections are repealed:

355.9-112 Where collateral is not owned by debtor.

355.9-113 Security interest arising under article on sales or article on leases.

355.9-114 Consignment.

355.9-115 Investment property.

355.9-116 Security interest arising in purchase or delivery of financial asset.

Section 181. The following KRS section is repealed:

355.9-401A Filing of financing statement and related documents with Secretary of State.

Section 182. Sections 1 to 18 of this Act applies to a letter of credit that is issued on or after the effective date of Sections 1 to 18 of this Act. Sections 1 to 18 of this Act do not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of Sections 1 to 18 of this Act.

Section 183. A transaction arising out of or associated with a letter of credit that was issued before the effective date of Sections 1 to 18 of this Act and the rights, obligations, and interests flowing from that transaction are governed by any statute or other law amended or repealed by this Act as if repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under that statute or other law.

Section 184. Sections 1 to 180, 182, and 183 of this Act become effective on July 1, 2001.

The House Committee Substitute No. 1 to **SB 11** is as follows:

SB 11, AN ACT providing for the adoption of revised articles of the Uniform Commercial Code and making changes incidental thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SEGMENT A

REVISED ARTICLE 5

(LETTERS OF CREDIT)

SECTION 1. KRS 355.5-101 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This article may be cited as Uniform Commercial Code – Letters of Credit.

SECTION 2. KRS 355.5-102 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this article:

- ***(a) "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.***
- ***(b) "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.***
- ***(c) "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.***
- ***(d) "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.***
- ***(e) "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.***
- ***(f) "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion:***
  - ***1. Which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by***

the letter of credit, by the standard practice referred to in subsection (5) of Section 8 of this Act; and

2. Which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

(g) "Good faith" means honesty in fact in the conduct or transaction concerned.

(h) "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs:

1. Upon payment;

2. If the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

3. If the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(i) "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(j) "Letter of credit" means a definite undertaking that satisfies the requirements of Section 4 of this Act by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(k) "Nominated person" means a person whom the issuer:

1. Designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit; and

2. Undertakes by agreement or custom and practice to reimburse.

(l) "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(m) "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person.

(n) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(o) "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(2) Definitions in other articles in this chapter applying to this article and the sections in which they appear are:

"Accept" or "Acceptance"	*KRS 355.3-409;*
"Value"	*KRS 355.3-303 and 355.4-211.*

(3) Article 1 of this chapter contains certain additional general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 3. KRS 355.5-103 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(2) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.

(3) With the exception of this subsection, subsections (1) and (4) of this section, subsection (1)(i) and (j) of Section 2 of this Act, subsection (4) of Section 6 of this Act, and subsection (4) of Section 14 of this Act, and to the extent prohibited in KRS 355.1-102(3) and subsection (4) of Section 17 of this Act, the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.

(4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

SECTION 4. KRS 355.5-104 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated:

(1) By a signature; or

(2) In accordance with the agreement of the parties or the standard practice referred to in subsection (5) of Section 8 of

this Act.

SECTION 5. KRS 355.5-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

SECTION 6. KRS 355.5-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(2) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(3) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one (1) year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(4) A letter of credit that states that it is perpetual expires five (5) years after its stated date of issuance, or if none is stated, after the date on which it is issued.

SECTION 7. KRS 355.5-107 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

(2) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

(3) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

(4) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection (3) of this section. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

SECTION 8. KRS 355.5-108 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 9 of this Act, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (5) of this section, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in Section 13 of this Act and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

(2) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

(a) To honor;

(b) If the letter of credit provides for honor to be completed more than seven (7) business days after presentation, to accept a draft or incur a deferred obligation; or

(c) To give notice to the presenter of discrepancies in the presentation.

(3) Except as otherwise provided in subsection (4) of this section, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

(4) Failure to give the notice specified in subsection (2) of this section or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor fraud or forgery as described in subsection (1) of Section 9 of this Act or expiration of the letter of credit before presentation.

(5) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

(6) An issuer is not responsible for:

(a) The performance or nonperformance of the underlying contract, arrangement, or transaction;

(b) An act or omission of others; or

(c) Observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection (5) of this section.

(7) If an undertaking constituting a letter of credit under subsection (1)(j) of Section 2 of this Act contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

(8) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

(9) An issuer that has honored a presentation as permitted or required by this article:

(a) Is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

(b) Takes the documents free of claims of the beneficiary or presenter;

(c) Is precluded from asserting a right of recourse on a draft under KRS 355.3-414 and 355.3-415;

(d) Except as otherwise provided in Sections 10 and 17 of this Act, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

(e) Is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

SECTION 9. KRS 355.5-109 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

(a) The issuer shall honor the presentation, if honor is demanded by:

1. A nominated person who has given value in good faith and without notice of forgery or material fraud;

2. A confirmer who has honored its confirmation in good faith;

3. A holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person; or

4. An assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

(b) The issuer, acting in good faith, may honor or dishonor the presentation in any other case.

(2) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

(a) The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

(b) A beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

(c) All of the conditions to entitle a person to the relief under the law of this Commonwealth have been met; and

(d) On the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subsection (1)(a) of this section.

SECTION 10. KRS 355.5-110 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If its presentation is honored, the beneficiary warrants:

(a) To the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in subsection (1) of Section 9 of this Act; and

(b) To the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

(2) The warranties in subsection (1) of this section are in addition to warranties arising under Articles 3, 4, 7, and 8 of this chapter because of the presentation or transfer of documents covered by any of those articles.

SECTION 11. KRS 355.5-111 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount

equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

(2) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

(3) If an adviser or nominated person other than a confirmer breaches an obligation under this article or an issuer breaches an obligation not covered in subsection (1) or (2) of this section, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (1) and (2) of this section.

(4) An issuer, nominated person, or adviser who is found liable under subsection (1), (2), or (3) of this section shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(5) Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this article.

(6) Damages that would otherwise be payable by a party for breach of an obligation under this article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

SECTION 12. KRS 355.5-112 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

If a letter of credit is transferable, the issuer may refuse to recognize or carry out a transfer if:

(1) The transfer would violate applicable law; or

(2) The transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in subsection (5) of Section 8 of this Act or is otherwise reasonable under the circumstances.

SECTION 13. KRS 355.5-113 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(2) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (5) of this section, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in subsection (5) of Section 8 of this Act or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(3) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(4) Honor of a purported successor's apparently complying presentation under subsection (1) or (2) of this section has the consequences specified in subsection (9) of Section 8 of this Act even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the beneficiary nor the successor of the beneficiary are forged documents for the purposes of Section 9 of this Act.

(5) An issuer whose rights of reimbursement are not covered by subsection (4) of this section or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection (2) of this section.

(6) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

SECTION 14. KRS 355.5-114 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(2) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(3) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(4) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and

presentation of the letter of credit is a condition to honor.

(5) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(6) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9 of this chapter or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9 of this chapter or other law.

SECTION 15. KRS 355.5-115 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

An action to enforce a right or obligation arising under this article must be commenced within one (1) year after the expiration date of the relevant letter of credit or one (1) year after the claim for relief accrues, whichever occurs later. A claim for relief accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

SECTION 16. KRS 355.5-116 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in Section 4 of this Act or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(2) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If:

(a) This article would govern the liability of an issuer, nominated person, or adviser under subsection (1) of this section;

(b) The relevant undertaking incorporates rules of custom or practice; and

(c) There is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in subsection (3) of Section 3 of this Act.

(3) If there is conflict between this article and Article 3, 4, 4A, or 9 of this chapter, this article governs.

(4) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (1) of this section.

SECTION 17. KRS 355.5-117 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

(2) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection (1) of this section.

(3) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

(a) The issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

(b) The beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

(c) The applicant to same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

(4) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections (1) and (2) of this section do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection (3) of this section do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.

SECTION 18. A NEW SECTION OF ARTICLE 5 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.5-118:

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1) of this section, the security interest continues and is subject to Article 9 of this chapter, but:

(a) A security agreement is not necessary to make the security interest enforceable under subsection (2)(c) of Section 33 of this Act;

(b) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(c) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

SEGMENT B
CONFORMING AMENDMENTS
FOR REVISED ARTICLE 5

Section 19. KRS 355.1-105 is amended to read as follows:

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this ***Commonwealth***[~~state~~] and also to another state or nation the parties may agree that the law either of this ***Commonwealth***[~~state~~] or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this ***Commonwealth***[~~state~~].

(2) Where one (1) of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of the laws rules) so specified:

Rights of creditors against sold goods. KRS 355.2-402.

Applicability of the article on leases. KRS 355.2A-105 and 355.2A-106.

Applicability of the article on bank deposits and collections. KRS 355.4-102.

Applicability of the article on investment securities. KRS 355.8-110.

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. Sections 41 to 47 of this Act[~~Perfection provisions of the article on secured transactions. KRS 355.9-103~~].

Governing law in the article on funds transfers. KRS 355.4A-507.

Letters of credit. Section 16 of this Act.

Section 20. KRS 355.2-512 is amended to read as follows:

(1) Where the contract requires payment before inspection nonconformity of the goods does not excuse the buyer from so making payment unless

(a) the nonconformity appears without inspection; or

(b) despite tender of the required documents the circumstances would justify injunction against honor under[~~ the provisions of~~] this chapter (***subsection (2) of Section 9 of this Act***[~~KRS 355.5-114~~]).

(2) Payment pursuant to subsection (1) does not constitute an acceptance of goods or impair the buyer's right to inspect or any of his remedies.

SEGMENT C
REVISED ARTICLE 9
(SECURED TRANSACTIONS)
PART 1
GENERAL PROVISIONS
SUBPART 1 SHORT TITLE, DEFINITIONS
AND GENERAL CONCEPTS

SECTION 21. KRS 355.9-101 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This article may be cited as Uniform Commercial Code -- Secured Transactions.

SECTION 22. KRS 355.9-102 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this article:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the

original goods is not lost.

(b) 1. "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance:

a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

b. For services rendered or to be rendered;

c. For a policy of insurance issued or to be issued;

d. For a secondary obligation incurred or to be incurred;

e. For energy provided or to be provided;

f. For the use or hire of a vessel under a charter or other contract;

g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or

h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

2. The term includes health-care-insurance receivables.

3. The term does not include:

a. Rights to payment evidenced by chattel paper or an instrument;

b. Commercial tort claims;

c. Deposit accounts;

d. Investment property;

e. Letter-of-credit rights or letters of credit; or

f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

1. Which secures payment or performance of an obligation for:

a. Goods or services furnished in connection with a debtor's farming operation; or

b. Rent on real property leased by a debtor in connection with its farming operation;

2. Which is created by statute in favor of a person that:

a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

b. Leased real property to a debtor in connection with the debtor's farming operation; and

c. Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:

a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

1. To sign; or

2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:

1. Charters or other contracts involving the use or hire of a vessel; or

2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

3. Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person that:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is one thousand dollars ($1,000) or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person that delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes;

2. A security interest secures the obligation; and

3. The collateral is held or acquired primarily for personal, family, or household purposes.

The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(ab) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(ac) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(ad) "Document" means a document of title or a receipt of the type described in KRS 355.7-201(2).

(ae) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(af) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(ag) "Equipment" means goods other than inventory, farm products, or consumer goods.

(ah) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation;

4. Products of crops or livestock in their unmanufactured states; or

5. Equine interests, including, but not limited to, interests in horses, mares, yearlings, foals, weanlings, stallions, syndicated stallions, and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof. If goods are farm products, they are neither equipment nor inventory.

(ai) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(aj) “File number” means the number assigned to an initial financing statement pursuant to subsection (1) of Section 110 of this Act.

(ak) “Filing office” means an office designated in Section 92 of this Act as the place to file a financing statement.

(al) “Filing-office rule” means a rule adopted pursuant to Section 117 of this Act.

(am) "Financing statement” means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(an) “Fixture filing” means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections (1) and (2) of Section 93 of this Act. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(ao) “Fixtures” means goods that have become so related to particular real property that an interest in them arises under real property law.

(ap) “General intangible” means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(aq) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(ar) “Goods” means all things that are movable when a security interest attaches.

- *1. The term includes:*
    - *a. Fixtures;*
    - *b. Standing timber that is to be cut and removed under a conveyance or contract for sale;*
    - *c. The unborn young of animals;*
    - *d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and*
    - *e. Manufactured homes.*
- *2. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:*
    - *a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or*
    - *b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.*
- *3. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.*
- *4. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.*

(as) “Governmental unit” means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(at) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(au) “Instrument” means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:

- *1. Investment property;*
- *2. Letters of credit; or*
- *3. Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.*

(av) “Inventory” means goods, other than farm products, which:

- *1. Are leased by a person as lessor;*
- *2. Are held by a person for sale or lease or to be furnished under a contract of service;*
- *3. Are furnished by a person under a contract of service; or*

4. Consist of raw materials, work in process, or materials used or consumed in a business.

(aw) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(ax) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(ay) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(az) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(ba) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(bc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(bd) "New debtor" means a person that becomes bound as debtor under subsection (4) of Section 33 of this Act by a security agreement previously entered into by another person.

(be) "New value" means:

1. Money;

2. Money's worth in property, services, or new credit; or

3. Release by a transferee of an interest in property previously transferred to the transferee.

The term does not include an obligation substituted for another obligation.

(bf) "Noncash proceeds" means proceeds other than cash proceeds.

(bg) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

1. Owes payment or other performance of the obligation;

2. Has provided property other than the collateral to secure payment or other performance of the obligation; or

3. Is otherwise accountable in whole or in part for payment or other performance of the obligation.

The term does not include issuers or nominated persons under a letter of credit.

(bh) "Original debtor," except as used in subsection (3) of Section 50 of this Act, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subsection (4) of Section 33 of this Act.

(bi) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(bj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(bk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;
2. An officer or director of, or a person performing similar functions with respect to, the organization;
3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1. of this paragraph;
4. The spouse of an individual described in subparagraph 1., 2., or 3. of this paragraph; or
5. An individual who is related by blood or marriage to an individual described in subparagraph 1., 2., 3., or 4. of this paragraph and shares the same home with the individual.

(bl) "Proceeds," except as used in subsection (2) of Section 127 of this Act, means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
2. Whatever is collected on, or distributed on account of, collateral;
3. Rights arising out of collateral;
4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(bm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(bn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 138, 139, and 140 of this Act.

(bo) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;
2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and
3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(bp) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(bq) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(br) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(bs) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or
2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(bt) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
2. A person that holds an agricultural lien;
3. A consignor;
4. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security

interest or agricultural lien is created or provided for; or

6. *A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118.*

(bu) "Security agreement" means an agreement that creates or provides for a security interest.

(bv) "Send," in connection with a record or notification, means:

1. *To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or*
2. *To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1. of this paragraph.*

(bw) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(bx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(by) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(bz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(ca) "Termination statement" means an amendment of a financing statement which:

1. *Identifies, by its file number, the initial financing statement to which it relates; and*
2. *Indicates either that it is a termination statement or that the identified financing statement is no longer effective.*

(cb) "Transmitting utility" means a person primarily engaged in the business of:

1. *Operating a railroad, subway, street railway, or trolley bus;*
2. *Transmitting communications electrically, electromagnetically, or by light;*
3. *Transmitting goods by pipeline or sewer; or*
4. *Transmitting or producing and transmitting electricity, steam, gas, or water.*

(2) The following definitions in other articles apply to this article:

"Applicant"	*KRS 355.5-102.*
"Beneficiary"	*KRS 355.5-102.*
"Broker"	*KRS 355.8-102.*
"Certificated security"	*KRS 355.8-102.*
"Check"	*KRS 355.3-104.*
"Clearing corporation"	*KRS 355.8-102.*
"Contract for sale"	*KRS 355.2-106.*
"Customer"	*KRS 355.4-104.*
"Entitlement holder"	*KRS 355.8-102.*
"Financial asset"	*KRS 355.8-102.*
"Holder in due course"	*KRS 355.3-302.*
"Issuer" (with respect to a letter of credit or letter-of-credit right)	*KRS 355.5-102.*
"Issuer" (with respect to a security)	*KRS 355.8-201.*
"Lease"	*KRS 355.2A-103.*
"Lease agreement"	*KRS 355.2A-103.*
"Lease contract"	*KRS 355.2A-103.*
"Leasehold interest"	*KRS 355.2A-103.*
"Lessee"	*KRS 355.2A-103.*
"Lessee in ordinary course of business"	*KRS 355.2A-103.*

"Lessor"	*KRS 355.2A-103.*
"Lessor's residual interest"	*KRS 355.2A-103.*
"Letter of credit"	*KRS 355.5-102.*
"Merchant"	*KRS 355.2-104.*
"Negotiable instrument"	*KRS 355.3-104.*
"Nominated person"	*KRS 355.5-102.*
"Note"	*KRS 355.3-104.*
"Proceeds of a letter of credit"	*KRS 355.5-114.*
"Prove"	*KRS 355.3-103.*
"Sale"	*KRS 355.2-106.*
"Securities account"	*KRS 355.8-501.*
"Securities intermediary"	*KRS 355.8-102.*
"Security"	*KRS 355.8-102.*
"Security certificate"	*KRS 355.8-102.*
"Security entitlement"	*KRS 355.8-102.*
"Uncertificated security"	*KRS 355.8-102.*

(3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

SECTION 23. KRS 355.9-103 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(b) The debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) In a transaction other than a consumer-goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) In a transaction other than a consumer-goods transaction, a purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) In a transaction other than a consumer-goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(8) The limitation of the rules in subsections (5), (6), and (7) of this section to transactions other than consumer-goods transactions is intended to leave to the court the determination of the proper rules in consumer-goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer-goods transactions and may continue to apply established approaches.

SECTION 24. KRS 355.9-104 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

SECTION 25. KRS 355.9-105 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6) of this section, unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

SECTION 26. KRS 355.9-106 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in Section 168 of this Act.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

SECTION 27. KRS 355.9-107 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under subsection (3) of Section 14 of this Act or otherwise applicable law or practice.

SECTION 28. KRS 355.9-108 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsections (3), (4), and (5) of this section, a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(2) Except as otherwise provided in subsection (4) of this section, a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5) of this section, a type of collateral defined in this chapter;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3) of this section, any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(4) Except as otherwise provided in subsection (5) of this section, a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in this chapter is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

SUBPART 2. APPLICABILITY OF ARTICLE

SECTION 29. KRS 355.9-109 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsections (3) and (4) of this section, this article applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), as provided in Section 30 of this Act; and

(f) A security interest arising under Section 18 of this Act or Section 165 of this Act.

(2) The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(3) This article does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this article;

(b) Another statute of this Commonwealth expressly governs the creation, perfection, priority, or enforcement of a security interest created by this Commonwealth or a governmental unit of this Commonwealth;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 14 of this Act.

(4) This article does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 73 of this Act applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee, or for workers' compensation benefits payable to an individual;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

  1. Section 80 of this Act applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

  2. Section 86 of this Act applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

  1. Liens on real property in Sections 33 and 48 of this Act;

  2. Fixtures in Section 74 of this Act;

  3. Fixture filings in Sections 92, 93, 103, 107, and 110 of this Act; and

  4. Security agreements covering personal and real property in Section 122 of this Act;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account in a consumer transaction, but Sections 55 and 62 of this Act apply with respect to proceeds and priorities in proceeds;

(n) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. sec. 104(a)(1) or (2), as amended from time to time;

(o) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. sec 1396p(d)(4), as amended from time to time; or

(p) A right to receive money under a structured settlement as defined by KRS 454.430.

SECTION 30. KRS 355.9-110 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5) is subject to this article. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if subsection (2)(c) of Section 33 of this Act has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by Article 2 or 2A of this chapter; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

PART 2

EFFECTIVENESS OF SECURITY AGREEMENT; ATTACHMENT OF SECURITY INTEREST; RIGHTS OF PARTIES TO SECURITY AGREEMENT

SUBPART 1. EFFECTIVENESS AND ATTACHMENT

SECTION 31. KRS 355.9-201 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this chapter, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law, statute, or regulation that establishes a different rule for consumers.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2) of this section, the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) of this section has only the effect the statute or regulation specifies.

(4) This article does not:

  (a) Validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2) of this section; or

  (b) Extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

SECTION 32. KRS 355.9-202 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

SECTION 33. KRS 355.9-203 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) to (9) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One (1) of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under Section 53 of this Act pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 170 of this Act pursuant to the debtor's security agreement; or

4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under Section 24, 25, 26, or 27 of this Act pursuant to the debtor's security agreement.

(3) Subsection (2) of this section is subject to Section 165 of this Act on the security interest of a collecting bank, Section 18 of this Act on the security interest of a letter-of-credit issuer or nominated person, Section 30 of this Act on a security interest arising under Article 2 or 2A of this chapter, and Section 36 of this Act on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies subsection (2)(c) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Section 55 of this Act and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

SECTION 34. KRS 355.9-204 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten (10) days after the secured party gives value; or

(b) A commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

SECTION 35. KRS 355.9-205 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

SECTION 36. KRS 355.9-206 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) of this section secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) of this section secures the obligation to make payment for the delivery.

SUBPART 2. RIGHTS AND DUTIES

SECTION 37. KRS 355.9-207 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (4) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4) of this section, if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4) of this section, a secured party having possession of collateral or control of collateral under Section 24, 25, 26, or 27 of this Act:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) of this section does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and *(b) Subsections (2) and (3) of this section do not apply.*

SECTION 38. KRS 355.9-208 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under subsection (1)(b) of Section 24 of this Act shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under subsection (1)(c) of Section 24 of this Act shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under Section 25 of this Act shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under subsection (4)(b) of Section 168 of this Act or subsection (2) of Section 26 of this Act shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under Section 27 of this Act shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

SECTION 39. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-209:

(1) Except as otherwise provided in subsection (3) of this section, this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within ten (10) days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under subsection (1) of Section 88 of this Act an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

SECTION 40. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-210:

(1) In this section:

(a) "Request" means a record of a type described in paragraph (b), (c), or (d) of this subsection.

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or

relationship that is the subject of the request.

(2) Subject to subsections (3), (4), (5), and (6) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

- *(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and*
- *(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.*

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within fourteen (14) days after receipt.

(4) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- *(a) Disclaiming any interest in the collateral; and*
- *(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.*

(5) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- *(a) Disclaiming any interest in the obligations; and*
- *(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.*

(6) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

PART 3

PERFECTION AND PRIORITY

SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY

SECTION 41. KRS 355.9-301 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 43 to 46 of this Act, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4) of this section, while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

- *(a) Perfection of a security interest in the goods by filing a fixture filing;*
- *(b) Perfection of a security interest in timber to be cut; and*
- *(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.*

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

SECTION 42. KRS 355.9-302 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

SECTION 43. KRS 355.9-303 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of

perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

SECTION 44. KRS 355.9-304 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part of this article:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

SECTION 45. KRS 355.9-305 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (3) of this section, the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in subsection (4) of Section 169 of this Act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in subsection (5) of Section 169 of this Act governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part of this article:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part of this article, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a

commodity intermediary.

SECTION 46. KRS 355.9-306 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsection (3) of this section, the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part of this article, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in Section 16 of this Act.

(3) This section does not apply to a security interest that is perfected only under subsection (4) of Section 48 of this Act.

SECTION 47. KRS 355.9-307 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one (1) place of business is located at its place of business.

(c) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(3) Subsection (2) of this section applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) of this section does not apply, the debtor is located in the District of Columbia.

(4) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3) of this section.

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) of this subsection applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or (6) of this section notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one (1) state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part of this article.

SUBPART 2. PERFECTION

SECTION 48. KRS 355.9-308 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section and Section 49 of this Act, a security interest is perfected if it has attached and all of the applicable requirements for perfection in Sections 50 to 56 of this Act have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in Section 50 of this Act have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one (1) method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

SECTION 49. KRS 355.9-309 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in subsection (2) of Section 51 of this Act with respect to consumer goods that are subject to a statute or treaty described in subsection (1) of Section 51 of this Act;

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), or 355.2A-508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under Section 165 of this Act;

(8) A security interest of an issuer or nominated person arising under Section 18 of this Act;

(9) A security interest arising in the delivery of a financial asset under subsection (3) of Section 36 of this Act;

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

SECTION 50. KRS 355.9-310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section and subsection (2) of Section 52 of this Act, a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under subsection (4), (5), (6), or (7) of Section 48 of this Act;

(b) That is perfected under Section 49 of this Act when it attaches;

(c) In property subject to a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act;

(d) In goods in possession of a bailee which is perfected under subsection (4)(a) or (b) of Section 52 of this Act;

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under subsection (5), (6), or (7) of Section 52 of this Act;

(f) In collateral in the secured party's possession under Section 53 of this Act;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under Section 53 of this Act;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under Section 54 of this Act;

(i) In proceeds which is perfected under Section 55 of this Act; or

(j) That is perfected under Section 56 of this Act.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

SECTION 51. KRS 355.9-311 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (4) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection (1) of Section 50 of this Act;

(b) KRS Chapter 186A; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in subsection (1) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (4) of this section and Section 53 and subsections (4) and (5) of Section 56 of this Act for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) of this section and subsections (4) and (5) of Section 56 of this Act, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(4) During any period in which collateral subject to a statute specified in subsection (1)(b) of this section is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

SECTION 52. KRS 355.9-312 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in subsections (3) and (4) of Section 55 of this Act for proceeds:

(a) A security interest in a deposit account may be perfected only by control under Section 54 of this Act;

(b) And except as otherwise provided in subsection (4) of Section 48 of this Act, a security interest in a letter-of-credit right may be perfected only by control under Section 54 of this Act; and

(c) A security interest in money may be perfected only by the secured party's taking possession under Section 53 of this Act.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the twenty (20) day period specified in subsection (5), (6), or (7) of this section expires, perfection depends upon

compliance with this article.

SECTION 53. KRS 355.9-313 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 170 of this Act.

(2) With respect to goods covered by a certificate of title issued by this Commonwealth, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in subsection (4) of Section 56 of this section.

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

- *(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or*
- *(b) The person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.*

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Section 170 of this Act and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(7) If a person acknowledges that it holds possession for the secured party's benefit:

- *(a) The acknowledgment is effective under subsection (3) of this section or subsection (1) of Section 170 of this Act, even if the acknowledgment violates the rights of a debtor; and*
- *(b) Unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.*

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

- *(a) To hold possession of the collateral for the secured party's benefit; or*
- *(b) To redeliver the collateral to the secured party.*

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) of this section violates the rights of a debtor. A person to which collateral is delivered under subsection (8) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

SECTION 54. KRS 355.9-314 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under Section 24, 25, 26, or 27 of this Act.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under Section 24, 25, or 27 of this Act when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under Section 26 of this Act from the time the secured party obtains control and remains perfected by control until:

- *(a) The secured party does not have control; and*
- *(b) One (1) of the following occurs:*
    - *1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;*
    - *2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or*
    - *3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.*

SECTION 55. KRS 355.9-315 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this article and in KRS 355.2-403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by Section 76 of this Act; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) of this section when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (4)(a) of this section becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under Section 106 of this Act or is terminated under Section 104 of this Act; or

(b) The twenty-first day after the security interest attaches to the proceeds.

SUBPART 3. PRIORITY

SECTION 56. KRS 355.9-316 IS REPEALED AND REENACTED TO READ AS FOLLOWS::

(1) A security interest perfected pursuant to the law of the jurisdiction designated in subsection (1) of Section 41 of this Act or subsection (3) of Section 45 of this Act remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of one (1) year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5) of this section, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this Commonwealth remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under subsection (2) of Section 51 of this Act or Section 53 of this Act are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the

goods not become covered by a certificate of title from this Commonwealth; or

(b) The expiration of four (4) months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SECTION 57. KRS 355.9-317 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under Section 62 of this Act; and

(b) Except as otherwise provided in subsection (5) of this section, a person that becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One (1) of the conditions specified in subsection (2)(c) of Section 33 of this Act is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in Sections 60 and 61 of this Act, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

SECTION 58. KRS 355.9-318 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

SECTION 59. KRS 355.9-319 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part of this article, a perfected security interest held by the consignor would have priority over the rights of the creditor.

SECTION 60. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-320:

(1) Except as otherwise provided in subsection (5) of this section, a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5) of this section, a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if

the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2) of this section, the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by subsections (1) and (2) of Section 56 of this Act.

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) of this section do not affect a security interest in goods in the possession of the secured party under Section 53 of this Act.

(6) If any horse of a registered breed, the racing of which is regulated by KRS Chapter 230, or any interest in such a horse (including stallion shares and seasons), is subject to a lien or a security interest and that horse or interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling these horses or interests at public auction, a bona fide purchaser for value of the horse or interest takes title to the horse or interest free and clear of the lien or security interest, and the organization selling the horse or interest is not liable in any manner to the holder of the lien or security interest, except to the extent provided by the Federal Food Security Act, 7 U.S.C. sec. 1631. However, the lien or security interest attaches to the proceeds from the sale to the extent provided in subsection (1)(b) of Section 55 of this Act.

SECTION 61. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-321:

(1) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

SECTION 62. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-322:

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of subsection (1)(a) of this section:

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6) of this section, a security interest in collateral which qualifies for priority over a conflicting security interest under Section 67, 68, 69, 70, or 71 of this Act also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (6) of this section, if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) of this section applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) to (5) of this section are subject to:

(a) Subsection (7) of this section and the other provisions of this part of this article;

(b) Section 165 of this Act with respect to a security interest of a collecting bank;

(c) Section 18 of this Act with respect to a security interest of an issuer or nominated person; and

(d) Section 30 of this Act with respect to a security interest arising under Article 2 or 2A of this chapter.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

SECTION 63. A NEW SECTION OF ARTICLE 9 0F KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-323:

(1) Except as otherwise provided in subsection (3) of this section, for purposes of determining the priority of a perfected security interest under subsection (1)(a) of Section 62 of this Act, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under Section 49 of this Act when it attaches; or

2. Temporarily under subsection (5), (6), or (7) of Section 52 of this Act; and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Section 49 of this Act or subsection (5), (6), or (7) of Section 52 of this Act.

(2) Except as otherwise provided in subsection (3) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five (45) days after the purchase.

(5) Subsection (4) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

(6) Except as otherwise provided in subsection (7) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five (45) days after the lease contract becomes enforceable.

(7) Subsection (6) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

SECTION 64. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-324:

(1) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as

otherwise provided in Section 67 of this Act, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in Section 70 of this Act, and, except as otherwise provided in Section 67 of this Act, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Subsections (2)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection (6) of Section 52 of this Act, before the beginning of the twenty (20) day period thereunder.

(4) Subject to subsection (5) of this section and except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in Section 67 of this Act, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Subsections (4)(b) to (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under subsection (6) of Section 52 of this Act, before the beginning of the twenty (20) day period thereunder.

(6) Except as otherwise provided in subsection (7) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in Section 67 of this Act, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), (2), (4), or (6) of this section:

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, subsection (1) of Section 62 of this Act applies to the qualifying security interests.

SECTION 65. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-325:

(1) Except as otherwise provided in subsection (2) of this section, a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter when the security interest is unperfected.

(2) Subsection (1) of this section subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under subsection (1) of Section 62 of this Act or Section 64 of this Act; or

(b) Arose solely under KRS 355.2-711(3) or 355.2A-508(5).

SECTION 66. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-326:

(1) Subject to subsection (2) of this section, a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under Section 99 of this Act in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under Section 99 of this Act.

(2) The other provisions of this part of this article determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under Section 99 of this Act. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

SECTION 67. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-327:

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under Section 24 of this Act has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4) of this section, security interests perfected by control under Section 54 of this Act rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4) of this section, a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under subsection (1)(c) of Section 24 of this Act has priority over a security interest held by the bank with which the deposit account is maintained.

SECTION 68. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-328:

The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under Section 26 of this Act has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4) of this section, conflicting security interests held by secured parties each of which has control under Section 26 of this Act rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under subsection (4)(a) of Section 168 of this Act, the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under subsection (4)(b) of Section 168 of this Act, the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under subsection (4)(c) of Section 168 of this Act, the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in subsection (2)(b) of Section 26 of this Act with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under subsection (1) of Section 53 of this Act and not by control under Section 54 of this Act has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are

perfected without control under Section 26 of this Act rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by Sections 62 and 63 of this Act.

SECTION 69. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-329:

The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under Section 27 of this Act has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under Section 54 of this Act rank according to priority in time of obtaining control.

SECTION 70. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-330:

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 25 of this Act; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under Section 25 of this Act in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in Section 67 of this Act, a purchaser having priority in chattel paper under subsection (1) or (2) of this section also has priority in proceeds of the chattel paper to the extent that:

(a) Section 62 of this Act provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in subsection (1) of Section 71 of this Act, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4) of this section, if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

SECTION 71. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-331:

(1) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, and 8 of this chapter.

(2) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Article 8 of this chapter.

(3) Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (1) and (2) of this section.

SECTION 72. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-332:

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

SECTION 73. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-333:

(1) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) Whose effectiveness depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

SECTION 74. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-334:

(1) A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(2) This article does not prevent creation of an encumbrance upon fixtures under real property law.

(3) In cases not governed by subsections (4) to (8) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(4) Except as otherwise provided in subsection (8) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(a) The security interest is a purchase-money security interest;

(b) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(c) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The debtor has an interest of record in the real property or is in possession of the real property and the security interest:

1. Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

2. Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(b) Before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

1. Factory or office machines;

2. Equipment that is not primarily used or leased for use in the operation of the real property; or

3. Replacements of domestic appliances that are consumer goods;

(c) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(d) The security interest is:

1. Created in a manufactured home in a manufactured-home transaction; and

2. Perfected pursuant to a statute described in subsection (1)(b) of Section 51 of this Act.

(6) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(a) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner.

(7) The priority of the security interest under subsection (6)(b) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(8) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (5) and (6) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(9) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

SECTION 75. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-335:

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4) of this section, the other provisions of this part of this article determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under subsection (2) of Section 51 of this Act.

(5) After default, subject to Part 6 of this article, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) of this section shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

SECTION 76. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-336:

(1) In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) of this section is perfected.

(5) Except as otherwise provided in subsection (6) of this section, the other provisions of this part of this article determine the priority of a security interest that attaches to the product or mass under subsection (3) of this section.

(6) If more than one (1) security interest attaches to the product or mass under subsection (3) of this section, the following rules determine priority:

  (a) A security interest that is perfected under subsection (4) of this section has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

  (b) If more than one (1) security interest is perfected under subsection (4) of this section, the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

SECTION 77. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-337:

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this Commonwealth issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under subsection (2) of Section 51 of this Act, after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

SECTION 78. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-338:

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in subsection (2)(e) of Section 107 of this Act which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel

paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

SUBPART 4. RIGHTS OF BANK

SECTION 79. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-339:

This article does not preclude subordination by agreement by a person entitled to priority.

SECTION 80. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-340:

(1) Except as otherwise provided in subsection (3) of this section, a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3) of this section, the application of this article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under subsection (1)(c) of Section 24 of this Act, if the set-off is based on a claim against the debtor.

SECTION 81. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-341:

Except as otherwise provided in subsection (3) of Section 80 of this Act, and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

SECTION 82. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-342:

This article does not require a bank to enter into an agreement of the kind described in subsection (1)(b) of Section 24 of this Act, even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

PART 4

RIGHTS OF THIRD PARTIES

SECTION 83. KRS 355.9-401 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section and Sections 88, 89, 90, and 91 of this Act, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

SECTION 84. KRS 355.9-402 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

SECTION 85. KRS 355.9-403 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) In this section, "value" has the meaning provided in KRS 355. 3-303(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

  (a) For value;

  (b) In good faith;

  (c) Without notice of a claim of a property or possessory right to the property assigned; and

  (d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under KRS 355.3-305(1).

(3) Subsection (2) of this section does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under KRS 355.3-305(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the

account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4) of this section, this section does not displace law other than this article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

SECTION 86. KRS 355.9-404 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) to (5) of this section, the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) of this section and except as otherwise provided in subsection (4) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) of this section only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 87. KRS 355.9-405 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) to (4) of this section.

(2) Subsection (1) of this section applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under subsection (1) of Section 88 of this Act.

(3) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 88. KRS 355.9-406 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsections (2) to (9) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8) of this section, notification is ineffective under subsection (1) of this section:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1) of this section.

(4) Except as otherwise provided in subsection (5) of this section and Sections 89 and 162 of this Act, and subject to subsection (8) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) of this section does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in Sections 89 and 162 of this Act and subject to subsections (8) and (9) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8) of this section, an account debtor may not waive or vary its option under subsection (2)(c) of this section.

(8) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

SECTION 89. KRS 355.9-407 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in subsection (7) of Section 162 of this Act, a term described in subsection (1)(b) of this section is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of subsection (4) of Section 162 of this Act unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

SECTION 90. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-408:

(1) Except as otherwise provided in subsection (2) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is

ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) of this section would be effective under law other than this article but is ineffective under subsection (1) or (3) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent provisions of the following statutes and any administrative regulations based on those statutes: KRS 56.230(2), 138.320(3), 138.665(4), 138.720(5), 139.250, 154A.400(3), 190.047(1), 190.070(2)(c), 217B.535(2), 228.070(2), 230.300(9), 234.330(10), 243.630(2), 260.730(3), 260.815, 288.460(2), 292.320(2)(b), 294.036(3), 304.3-410(2)(f), 304.3-520(5), 333.080, 350.135(1), 365.430(27), and 368.070(2).

(6) Subsection (3) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

SECTION 91. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-409:

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) of this section but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

(3) Subsection (1) of this section does not apply to the following statutes and to administrative regulations promulgated under the authority of those statutes: KRS 304.2-260, KRS 304.24-420, Subtitle 33 of KRS Chapter 304, and Subtitle 37 of KRS Chapter 304.

PART 5

FILING

SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

SECTION 92. KRS 355.9-501 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, if the local law of this Commonwealth governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(a) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(b) The office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

SECTION 93. KRS 355.9-502 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Subject to subsection (2) of this section, a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in subsection (2) of Section 92 of this Act, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) of this section and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(c) The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record is recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

SECTION 94. KRS 355.9-503 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) of this section is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subsection (1)(d)2. of this section, names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

SECTION 95. KRS 355.9-504 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to Section 28 of this Act; or

(2) An indication that the financing statement covers all assets or all personal property.

SECTION 96. KRS 355.9-505 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in subsection (1) of Section 51 of this Act, using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part of this article applies to the filing of a financing statement under subsection (1) of this section and, as appropriate, to compliance that is equivalent to filing a financing statement under subsection (2) of Section 51 of this Act, but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

SECTION 97. KRS 355.9-506 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A financing statement substantially satisfying the requirements of this part of this article is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3) of this section, a financing statement that fails sufficiently to provide the name of the debtor in accordance with subsection (1) of Section 94 of this Act is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with subsection (1) of Section 94 of this Act, the name provided does not make the financing statement seriously misleading.

(4) For purposes of subsection (2) of Section 99 of this Act, the "debtor's correct name" in subsection (3) of this section means the correct name of the new debtor.

SECTION 98. KRS 355.9-507 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) of this section and Section 99 of this Act, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement

becomes seriously misleading under Section 97 of this Act.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under Section 97 of this Act:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four (4) months after the change.

SECTION 99. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-508:

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) of this section to be seriously misleading under Section 97 of this Act:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four (4) months after, the new debtor becomes bound under subsection (4) of Section 33 of this Act; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under subsection (4) of Section 33 of this Act unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under subsection (1) of Section 98 of this Act.

SECTION 100. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-509:

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (1) or (2) of this section; or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under subsection (1)(b) of Section 55 of this Act, whether or not the security agreement expressly covers proceeds.

(3) By acquiring collateral in which a security interest or agricultural lien continues under subsection (1)(a) of Section 55 of this Act, a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under subsection (1)(b) of Section 55 of this Act.

(4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by subsection (1) or (3) of Section 104 of this Act, the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(5) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (4) of this section.

SECTION 101. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-510:

(1) A filed record is effective only to the extent that it was filed by a person that may file it under Section 100 of this Act.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the six (6) month period prescribed by subsection (4) of Section 106 of

this Act is ineffective.

SECTION 102. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AT KRS 355.9-511:

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under subsection (1) of Section 105 of this Act, the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under subsection (2) of Section 105 of this Act, the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

SECTION 103. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-512:

(1) Subject to Section 100 of this Act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5) of this section, otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its file number, the initial financing statement to which the amendment relates; and

(b) If the amendment relates to an initial financing statement filed in a filing office described in subsection (1)(a) of Section 92 of this Act, provides the information specified in subsection (2) of Section 93 of this Act.

(2) Except as otherwise provided in Section 106 of this Act, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

SECTION 104. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-513:

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1) of this section, a secured party shall cause the secured party of record to file the termination statement:

(a) Within one (1) month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within twenty (20) days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1) of this section, within twenty (20) days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in Section 101 of this Act, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 101 of this Act, for purposes of Sections 110(7), 113(1), and 114(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

SECTION 105. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-514:

(1) Except as otherwise provided in subsection (3) of this section, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3) of this section, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its file number, the initial financing statement to which it relates;

(b) Provides the name of the assignor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under subsection (3) of Section 93 of this Act may be made only by an assignment of record of the mortgage in the manner provided by law of this Commonwealth other than this chapter.

SECTION 106. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-515:

(1) Except as otherwise provided in subsections (2), (5), (6), and (7) of this section, a filed financing statement is effective for a period of five (5) years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (1) of this section or the thirty (30) year period specified in subsection (2) of this section, whichever is applicable.

(5) Except as otherwise provided in Section 101 of this Act, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (3) of this section, unless, before the lapse, another continuation statement is filed pursuant to subsection (4) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under subsection (3) of Section 93 of this Act remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

SECTION 107. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-516:

(1) Except as otherwise provided in subsection (2) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable filing fee is not tendered;

(c) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide a name for the debtor;

2. In the case of an amendment or correction statement, the record:

a. Does not identify the initial financing statement as required by Section 103 or 109 of this Act, as applicable; or

b. Identifies an initial financing statement whose effectiveness has lapsed under Section 106 of this Act;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

4. In the case of a record filed in the filing office described in subsection (1)(a) of Section 92 of this Act, the record does not provide a sufficient description of the real property to which it relates;

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(f) In the case of an assignment reflected in an initial financing statement under subsection (1) of Section 105 of this Act or an amendment filed under subsection (2) of Section 105 of this Act, the record does not provide a name and mailing address for the assignee; or

(g) In the case of a continuation statement, the record is not filed within the six (6) month period prescribed by subsection (4) of Section 106 of this Act.

(3) For purposes of subsection (2) of this section:

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 103, 105, or 109 of this Act, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

SECTION 108. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-517:

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

SECTION 109. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-518:

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed

record.

SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

SECTION 110. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-519:

(1) For each record filed in a filing office, the filing office shall:

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5) of this subsection.

(2) A file number must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5) of this section, the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this Commonwealth provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under subsection (1) of Section 105 of this Act or an amendment filed under subsection (2) of Section 105 of this Act:

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this Commonwealth provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability:

(a) To retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under Section 106 of this Act with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) to (5) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the record in question.

(9) Subsection (2) of this section does not apply to a filing office described in subsection (1)(a) of Section 92 of this Act.

SECTION 111. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-520:

(1) A filing office shall refuse to accept a record for filing for a reason set forth in subsection (2) of Section 107 of this Act and may refuse to accept a record for filing only for a reason set forth in subsection (2) of Section 107 of this Act.

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than two (2) business days after the filing office receives the record.

(3) A filed financing statement satisfying subsections (1) and (2) of Section 93 of this Act is effective, even if the filing

office is required to refuse to accept it for filing under subsection (1) of this section. However, Section 78 of this Act applies to a filed financing statement providing information described in subsection (2)(e) of Section 107 of this Act which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one (1) debtor, this part of this article applies as to each debtor separately.

SECTION 112. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-521:

(1) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format set forth as Form UCC1 and Form UCC1Ad in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in subsection (2) of Section 107 of this Act.

(2) A filing office that accepts written records may not refuse to accept a written record in the form and format set forth as Form UCC3 and Form UCC3Ad in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in subsection (2) of Section 107 of this Act.

SECTION 113. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-522:

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under Section 106 of this Act with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1) of this section.

SECTION 114. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-523:

(1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

- *(a) Note upon the copy the number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act and the date and time of the filing of the record; and*
- *(b) Send the copy to the person.*

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

- *(a) The information in the record;*
- *(b) The number assigned to the record pursuant to subsection (1)(a) of Section 110 of this Act; and*
- *(c) The date and time of the filing of the record.*

(3) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

- *(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:*
    - *1. Designates a particular debtor;*
    - *2. Has not lapsed under Section 106 of this Act with respect to all secured parties of record; and*
    - *3. If the request so states, has lapsed under Section 106 of this Act and a record of which is maintained by the filing office under subsection (1) of Section 113 of this Act;*
- *(b) The date and time of filing of each financing statement; and*
- *(c) The information provided in each financing statement.*

(4) In complying with its duty under subsection (3) of this section, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(5) The filing office shall perform the acts required by subsections (1) to (4) of this section at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(6) At least weekly, the Secretary of State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies

of all records filed in it under this part of this article, in every medium from time to time available to the filing office.

SECTION 115. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-524:

Delay by the filing office beyond a time limit prescribed by this part of this article is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

SECTION 116. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-525:

(1) Except as otherwise provided in subsection (4) of this section, the fee for filing and indexing a record under this part of this article is:

(a) Ten dollars ($10) if the record is communicated in writing and consists of one (1) or two (2) pages;

(b) Twenty dollars ($20) if the record is communicated in writing and consists of more than two (2) pages; and

(c) Five dollars ($5) if the record is communicated by another medium authorized by filing-office rule.

(2) The number of names required to be indexed does not affect the amount of the fee in subsection (1) of this section.

(3) The fee for issuing a certificate showing whether there is on file any financing statement naming a particular debtor is five dollars ($5).

(4) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under subsection (3) of Section 93 of this Act. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

SECTION 117. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-526:

(1) The Secretary of State shall promulgate administrative regulations to implement this article as it relates to the Secretary of State. The filing-office administrative regulations must be:

(a) Consistent with this article; and

(b) Promulgated in accordance with KRS Chapter 13A.

(2) To keep the filing-office administrative regulations and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part of this article, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part of this article. The Secretary of State, so far as is consistent with the purposes, policies, and provisions of this article, in promulgating, amending, and repealing filing-office administrative regulations, shall:

(a) Consult with filing offices in other jurisdictions that enact substantially this part of this article; and

(b) Consult the most recent version of the model rules promulgated by the International Association of Corporate Administrators or any successor organization; and

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part of this article.

SECTION 118. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-527:

The Secretary of State shall report annually on or before June 30 to the Governor and to the Legislative Research Commission on the operation of the filing office. The report must contain a statement of the extent to which:

(1) The filing-office administrative regulations are not in harmony with the rules of filing offices in other jurisdictions that enact substantially this part of this article and the reasons for these variations; and

(2) The filing-office administrative regulations are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

PART 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

SECTION 119. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-601:

(1) After default, a secured party has the rights provided in this part of this article and, except as otherwise provided in Section 120 of this Act, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under Section 24, 25, 26, or 27 of this Act has the rights and duties provided in Section 37 of this Act.

(3) The rights under subsections (1) and (2) of this section are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) of this section and Section 123 of this Act, after default, a debtor and an obligor have the rights provided in this part of this article and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(7) Except as otherwise provided in subsection (3) of Section 125 of this Act, this part of this article imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

SECTION 120. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-602:

Except as otherwise provided in Section 142 of this Act, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Subsection (2)(d)3. of Section 37 of this Act, which deals with use and operation of the collateral by the secured party;

(2) Section 40 of this Act, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Subsection (3) of Section 125 of this Act, which deals with collection and enforcement of collateral;

(4) Subsection (1) of Section 126 of this Act and subsection (3) of Section 133 of this Act to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Subsection (1) of Section 126 of this Act and subsection (4) of Section 133 of this Act to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 127 of this Act to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Subsection (2) of Section 128 and Sections 129, 131, and 132 of this Act, which deal with disposition of collateral;

(8) Subsection (6) of Section 133 of this Act, which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 134 of this Act, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 138, 139, and 140 of this Act, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 141 of this Act, which deals with redemption of collateral;

(12) Section 142 of this Act, which deals with permissible waivers; and

(13) Sections 143 and 144 of this Act, which deal with the secured party's liability for failure to comply with this article.

SECTION 121. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-603:

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in Section 120 of this Act if the standards are not manifestly unreasonable.

(2) Subsection (1) of this section does not apply to the duty under Section 127 of this Act to refrain from breaching the peace.

SECTION 122. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-604:

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part of this article as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part of this article do not apply.

(2) Subject to subsection (3) of this section, if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part of this article; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part of this article do not apply.

(3) Subject to the other provisions of this part of this article, if a secured party holding a security interest in fixtures has priority over all owners and encumbrances of the real property, the secured party, after default, may remove the collateral from the real property.

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

SECTION 123. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-605:

A secured party does not owe a duty based on its status as secured party:

(1) To a person that is a debtor or obligor, unless the secured party knows:

(a) That the person is a debtor or obligor;

(b) The identity of the person; and

(c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(a) That the person is a debtor; and

(b) The identity of the person.

SECTION 124. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-606:

For purposes of this part of this article, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

SECTION 125. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-607:

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under Section 55 of this Act;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under subsection (1)(a) of Section 24 of this Act, may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under subsection (1)(b) or (c) of Section 24 of this Act, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) of this section reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

SECTION 126. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-608:

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under Section 125 of this Act in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (a)3. of this subsection.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under Section 125 of this Act unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

SECTION 127. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-609:

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under Section 128 of this Act.

(2) A secured party may proceed under subsection (1) of this section:

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

SECTION 128. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-610:

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one (1) or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4) of this section:

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) of this section if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

(7) The acquisition of a repossession title by a secured party shall not be deemed a disposition of collateral under this section.

SECTION 129. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-611:

(1) In this section, "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4) of this section, a secured party that disposes of collateral under Section 128 of this Act shall send to the persons specified in subsection (3) of this section a reasonable authenticated notification of disposition.

(3) To comply with subsection (2) of this section, the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, ten (10) days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act.

(4) Subsection (2) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subsection (3)(c)2. of this section if:

(a) Not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (3)(c)2. of this section; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

SECTION 130. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-612:

(1) Except as otherwise provided in subsection (2) of this section, whether a notification is sent within a reasonable time is a question of fact.

(2) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

SECTION 131. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-613:

Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

  (a) Describes the debtor and the secured party;

  (b) Describes the collateral that is the subject of the intended disposition;

  (c) States the method of intended disposition;

  (d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

  (e) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) of this section are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) of this section are sufficient, even if the notification includes:

  (a) Information not specified by that subsection; or

  (b) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in subsection (3) of Section 132 of this Act, when completed, each provides sufficient information:

"NOTIFICATION OF DISPOSITION OF COLLATERAL

To: <Name of debtor, obligor, or other person to which the notification is sent>

From: <Name, address, and telephone number of secured party>

Name of Debtor(s): <Include only if debtor(s) are not an addressee>

<For a public disposition:>

We will sell <or lease or license, as applicable> the <describe collateral> <to the highest qualified bidder> in public as follows:

Day and Date:. . . . .

Time: . . . .

Place: . . . .

<For a private disposition:>

We will sell <or lease or license, as applicable> the <describe collateral> privately sometime after <day and date>.

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell <or lease or license, as applicable> <for a charge of $...... >. You may request an accounting by calling us at <telephone number>".

SECTION 132. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-614:

In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

  (a) The information specified in subsection (1) of Section 131 of this Act;

  (b) A description of any liability for a deficiency of the person to which the notification is sent;

  (c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 141 of this Act is available; and

  (d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

"<Name and address of secured party>

<Date>

NOTICE OF OUR PLAN TO SELL PROPERTY

<Name and address of any obligor who is also a debtor>

Subject: <Identification of Transaction>

We have your ..... <describe collateral>, because you broke promises in our agreement.

<For a public disposition:>

We will sell ..... <describe collateral> at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: ....
Time: ....
Place: ....

You may attend the sale and bring bidders if you want.

<For a private disposition:>

We will sell ..... <describe collateral> at private sale sometime after ..... <date>. A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you ..... <will or will not, as applicable> still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at ..... <telephone number>.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at ..... <telephone number> <or write us at ..... <secured party's address>> and request a written explanation. <We will charge you $..... for the explanation if we sent you another written explanation of the amount you owe us within the last six (6) months.>

If you need more information about the sale call us at ..... <telephone number> <or write us at ..... <secured party's address>>.

We are sending this notice to the following other people who have an interest in ..... <describe collateral> or who owe money under your agreement:

<Names of all other debtors and obligors, if any>"

(4) A notification in the form of subsection (3) of this section is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) of this section is sufficient, even if it includes errors in information not required by subsection (1) of this section, unless the error is misleading with respect to rights arising under this article.

(6) If a notification under this section is not in the form of subsection (3) of this section, law other than this article determines the effect of including information not required by subsection (1) of this section.

SECTION 133. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-615:

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under Section 128 of this Act in the following order to:

  (a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

  (b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

  (c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

    1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

    2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

  (d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the

holder's demand under subsection (1)(c) of this section.

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under Section 128 of this Act unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) of this section and permitted by subsection (3) of this section:

- ***(a) Unless subsection (1)(d) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and***
- ***(b) The obligor is liable for any deficiency.***

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

- ***(a) The debtor is not entitled to any surplus; and***
- ***(b) The obligor is not liable for any deficiency.***

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part of this article to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

- ***(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and***
- ***(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.***

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

- ***(a) Takes the cash proceeds free of the security interest or other lien;***
- ***(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and***
- ***(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.***

SECTION 134. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-616:

(1) In this section:

- ***(a) "Explanation" means a writing that:***
  - ***1. States the amount of the surplus or deficiency;***
  - ***2. Provides an explanation in accordance with subsection (3) of this section of how the secured party calculated the surplus or deficiency;***
  - ***3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and***
  - ***4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.***
- ***(b) "Request" means a record:***
  - ***1. Authenticated by a debtor or consumer obligor;***
  - ***2. Requesting that the recipient provide an explanation; and***
  - ***3. Sent after disposition of the collateral under Section 128 of this Act.***

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Section 133 of this Act, the secured party shall:

- ***(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:***
  - ***1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and***
  - ***2. Within fourteen (14) days after receipt of a request; or***
- ***(b) In the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.***

(3) To comply with subsection (1)(a)2. of this section, a writing must provide the following information in the following

order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a) of this subsection; and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (2)(a) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars ($25) for each additional response.

SECTION 135. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-617:

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1) of this section, even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1) of this section, the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

SECTION 136. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-618:

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1) of this section:

(a) Is not a disposition of collateral under Section 128 of this Act; and

(b) Relieves the secured party of further duties under this article.

SECTION 137. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-619:

(1) In this section, "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) of this section or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

SECTION 138. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-620:

(1) Except as otherwise provided in subsection (7) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3) of this section;

(b) The secured party does not receive, within the time set forth in subsection (4) of this section, a notification of objection to the proposal authenticated by:

1. A person to which the secured party was required to send a proposal under Section 139 of this Act; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section 142 of this Act.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) of this section are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

3. Does not receive a notification of objection authenticated by the debtor within twenty (20) days after the proposal is sent.

(4) To be effective under subsection (1)(b) of this section, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to Section 139 of this Act, within twenty (20) days after notification was sent to that person; and

(b) In other cases:

1. Within twenty (20) days after the last notification was sent pursuant to Section 139 of this Act; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3) of this section.

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section 128 of this Act within the time specified in subsection (6) of this section if:

(a) Sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5) of this section, the secured party shall dispose of the collateral:

(a) Within ninety (90) days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

SECTION 139. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS 355.9-621:

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, ten (10) days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in subsection (1) of Section 51 of this Act.

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1) of this section.

SECTION 140. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-622:

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1) of this section, even if the secured party fails to comply with this article.

SECTION 141. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-623:

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in subsection (1)(a) of Section 133 of this Act.

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under Section 125 of this Act;

(b) Has disposed of collateral or entered into a contract for its disposition under Section 128 of this Act; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under Section 140 of this Act.

SECTION 142. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-624:

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under Section 129 of this Act only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under subsection (5) of Section 138 of this Act only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under Section 141 of this Act only by an agreement to that effect entered into and authenticated after default.

SUBPART 2. NONCOMPLIANCE WITH ARTICLE

SECTION 143. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-625:

(1) If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(2) Subject to subsections (3), (4), and (6) of this section, a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(3) Except as otherwise provided in Section 146 of this Act:

(a) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) of this section for its loss; and

(b) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part of this article may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(4) A debtor whose deficiency is eliminated under Section 144 of this Act may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under Section 144 of this Act may not otherwise recover under subsection (2) of this section for noncompliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(5) In addition to any damages recoverable under subsection (2) of this section, the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars ($500) in each case from a person that:

(a) Fails to comply with Section 38 of this Act;

(b) Fails to comply with Section 39 of this Act;

(c) Files a record that the person is not entitled to file under subsection (1) of Section 100 of this Act;

(d) Fails to cause the secured party of record to file or send a termination statement as required by subsection (1) or (3) of Section 104 of this Act;

(e) Fails to comply with subsection (2)(a) of Section 134 of this Act and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with subsection (2)(b) of Section 134 of this Act.

(6) A debtor or consumer obligor may recover damages under subsection (2) of this section and, in addition, five hundred dollars ($500) in each case from a person that, without reasonable cause, fails to comply with a request under Section 40 of this Act. A recipient of a request under Section 40 of this Act which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under Section 40 of this Act, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

SECTION 144. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-626:

(1) In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(a) A secured party need not prove compliance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(b) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part of this article.

(c) Except as otherwise provided in Section 146 of this Act, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

1. The proceeds of the collection, enforcement, disposition, or acceptance; or

2. The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part of this article relating to collection, enforcement, disposition, or acceptance.

(d) For purposes of paragraph (c)2. of this subsection, the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(e) If a deficiency or surplus is calculated under subsection (6) of Section 133 of this Act, the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(2) The limitation of the rules in subsection (1) of this section to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

SECTION 145. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-627:

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) of this section need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

SECTION 146. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-628:

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(b) The secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as secured party:

(a) To a person that is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) An obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under subsection (3)(b) of Section 143 of this Act for its failure to comply with Section 134 of this Act.

(5) A secured party is not liable under subsection (3)(b) of Section 143 of this Act more than once with respect to any one (1) secured obligation.

PART 7

TRANSITION

SECTION 147. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS 355.9-701:

This article takes effect on July 1, 2001.

SECTION 148. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-702:

(1) Except as otherwise provided in this part of this article, the revision of Article 9 in this Act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this Act takes effect.

(2) Except as otherwise provided in subsection (3) of this section and Sections 149 to 155 of this Act:

- ***(a) Transactions and liens that were not governed by the former Article 9 of this chapter, were validly entered into or created before the revision of Article 9 in this Act takes effect, and would be subject to the revision of Article 9 in this Act if they had been entered into or created after this Act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this Act takes effect; and***
- ***(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by the revision of Article 9 in this Act or by the law that otherwise would apply if this Act had not taken effect.***

(3) The revision of Article 9 in this Act does not affect an action, case, or proceeding commenced before this Act takes effect.

SECTION 149. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-703:

(1) A security interest that is enforceable immediately before this Act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under the revision of Article 9 in this Act if, when this Act takes effect, the applicable requirements for enforceability and perfection under the revision of Article 9 in this Act are satisfied without further action.

(2) Except as otherwise provided in Section 151 of this Act, if, immediately before this Act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under the revision of Article 9 in this Act are not satisfied when this Act takes effect, the security interest:

- ***(a) Is a perfected security interest for one (1) year after this Act takes effect;***
- ***(b) Remains enforceable thereafter only if the security interest becomes enforceable under Section 33 of this Act before the year expires; and***
- ***(c) Remains perfected thereafter only if the applicable requirements for perfection under the revision of Article 9 in this Act are satisfied before the year expires.***

SECTION 150. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-704:

A security interest that is enforceable immediately before this Act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) Remains an enforceable security interest for one (1) year after this Act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under Section 33 of this Act when this Act takes effect or within one (1) year thereafter; and

(3) Becomes perfected:

- ***(a) Without further action, when this Act takes effect if the applicable requirements for perfection under the revision of Article 9 in this Act are satisfied before or at that time; or***
- ***(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.***

SECTION 151. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-705:

(1) If action, other than the filing of a financing statement, is taken before this Act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this Act takes effect, the action is effective to perfect a security interest that attaches under the revision of Article 9 in this Act within one (1) year after this Act takes effect. An attached security interest becomes unperfected one (1) year after this Act takes effect unless the security interest becomes a perfected security interest under the revision of Article 9 in this Act before the expiration of that period.

(2) The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under the revision of Article 9 in this Act.

(3) The revision of Article 9 in this Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103, or law determining the place of filing as provided in the former KRS 355.9-401. However, except as otherwise provided in subsections (4) and (5) of this section and Section 152 of this Act, the financing statement ceases to be effective at the earlier of:

- *(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or*
- *(b) June 30, 2006.*

(4) The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this article, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

(5) Subsection (3)(b) of this section applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the former KRS 355.9-103 only to the extent that Part 3 of this article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this Act takes effect and a continuation statement filed after this Act takes effect is effective only to the extent that it satisfies the requirements of Part 5 of this article for an initial financing statement.

SECTION 152. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-706:

(1) The filing of an initial financing statement in the office specified in Section 92 of this Act continues the effectiveness of a financing statement filed before this Act takes effect if:

- *(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under the revision of Article 9 in this Act;*
- *(b) The pre-effective-date financing statement was filed in an office in another state or another office in this Commonwealth; and*
- *(c) The initial financing statement satisfies subsection (3) of this section.*

(2) The filing of an initial financing statement under subsection (1) of this section continues the effectiveness of the pre-effective-date financing statement:

- *(a) If the initial financing statement is filed before this Act takes effect, for the period provided in the former KRS 355.9-403 with respect to a financing statement; and*
- *(b) If the initial financing statement is filed after this Act takes effect, for the period provided in Section 106 of this Act with respect to an initial financing statement.*

(3) To be effective for purposes of subsection (1) of this section, an initial financing statement must:

- *(a) Satisfy the requirements of Part 5 of this article for an initial financing statement;*
- *(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and*
- *(c) Indicate that the pre-effective-date financing statement remains effective.*

(4) When a secured party files an initial financing statement with the Secretary of State under subsection (1) of this section or under Section 153 of this Act, the secured party may send a copy of the initial financing statement to the county clerk of the county in which the pre-effective-date financing statement was filed, and, additionally, may send to the county clerk copies of any continuation statement subsequently filed with the Secretary of State that relates to an initial financing statement filed under subsection (1) of this section or under Section 153 of this Act. The secured party's election not to send a copy of an initial financing statement or a continuation statement to the county clerk does not affect in any way the perfection of the secured party's security interest. The county clerk shall append to the pre-effective-date financing statement the copy of any initial financing statement or continuation statement received from a secured party and shall retain the entire file as required by Section 156 of this Act.

SECTION 153. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-707:

(1) In this section, "pre-effective-date financing statement" means a financing statement filed before the effective date of this Act.

(2) After the effective date of this Act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4) of this section, if the law of this Commonwealth governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the effective date of this Act only if:

- *(a) The pre-effective-date financing statement and an amendment are filed in the office specified in Section 92 of this Act;*
- *(b) An amendment is filed in the office specified in Section 92 of this Act concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection (3) of Section 152 of this Act; or*
- *(c) An initial financing statement that provides the information as amended and satisfies subsection (3) of Section 152 of this Act is filed in the office specified in Section 92 of this Act.*

(4) If the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under subsections (4) and (6) of Section 151 of this Act or Section 152 of this Act.

(5) Whether or not the law of this Commonwealth governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this Commonwealth may be terminated after the effective date of this Act by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection (3) of Section 152 of this Act has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 of this Article as the office in which to file a financing statement.

SECTION 154. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-708:

A person may file an initial financing statement or a continuation statement under this part of this article if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part of this article:

- *(a) To continue the effectiveness of a financing statement filed before this Act takes effect; or*
- *(b) To perfect or continue the perfection of a security interest.*

SECTION 155. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-709:

(1) The revision of Article 9 in this Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this Act takes effect, the former Article 9 of this chapter determines priority.

(2) For purposes of subsection (1) of Section 62 of this Act, the priority of a security interest that becomes enforceable under Section 33 of this Act dates from the time this Act takes effect if the security interest is perfected under the revision of Article 9 in this Act by the filing of a financing statement before this Act takes effect which would not have been effective to perfect the security interest under the former Article 9 of this chapter. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

SECTION 156. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 355.9-710:

(1) A county clerk who receives a statement tendered by a secured party under Part 4 of the former Article 9, prior to the effective date of this Act, that has not been filed or indexed on the effective date of this Act, shall file and index the statement as soon as practicable.

(2) Every county clerk shall append to the pre-effective-date financing statement the copies of any initial financing statement or continuation statement received from a secured party under subsection (4) of Section 152 of this Act.

(3) The county clerk shall maintain all records filed under Part 4 of the former Article 9 and subsection (2) of this section until the later of:

- *(a) One (1) year after the lapse of the initial financing statement;*
- *(b) July 1, 2008; or*
- *(c) Such other record-retention requirement as may be applicable under other Kentucky law or administrative*

regulations.

(4) The county clerk shall respond to requests for information with respect to records maintained under this Article in accordance with subsections (3) and (4) of Section 114 of this Act and may charge the fee for issuing certificates authorized in Section 116 of this Act.

(5) When Internet access is available through the AVIS system or its successor, every county clerk shall provide a means within his or her office by which the Secretary of State's filing system for this Article can be searched and through which electronic filings under this Article can be made with the Secretary of State. This subsection shall not be construed to require a secured party to file through the means provided by a county clerk. The county clerk shall neither be required to conduct a search of the Secretary of State's filing system nor to issue a certificate as to the contents of the system.

SEGMENT D

CONFORMING AMENDMENTS FOR REVISED ARTICLE 9

Section 157. KRS 355.1-201 is amended to read as follows:

Subject to additional definitions contained in the subsequent articles of this chapter which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (KRS 355.1-205 and 355.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (KRS 355.1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person ***that buys goods***~~[who]~~ in good faith,~~[and]~~ without knowledge that the sale ***violates***~~[to him is in violation of]~~ the~~[ownership]~~ rights~~[or security interest]~~ of ***another person***~~[a third party]~~ in the goods, ***and***~~[buys]~~ in ***the*** ordinary course from a person***, other than a pawnbroker,*** in the business of selling goods of that kind~~[but does not include a pawnbroker]~~. ***A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person***~~[All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons]~~ in the business of selling goods of that kind. ***A buyer in ordinary course of business***~~["Buying"]~~ may ***buy***~~[be]~~ for cash,~~[or]~~ by exchange of other property or on secured or unsecured credit, and ***may acquire***~~[includes receiving]~~ goods or documents of title under a preexisting contract for sale~~[but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt]~~. ***Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 of this chapter may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.***

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when

(a) He has actual knowledge of it; or

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) It comes to his attention; or

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (See KRS 355.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, ***security interest,*** issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation.~~[The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest."]~~ The term also includes any interest of a ***consignor and a*** buyer of accounts~~,[or]~~ chattel paper***, a payment intangible, or a promissory note in a transaction that***~~[which]~~ is subject to Article 9 ***of this chapter***. The special property interest of a buyer of goods on identification of those goods to a contract for sale under KRS 355.2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Article 9 ***of this chapter. Except as otherwise provided in KRS 355.2-505, the right of a seller or lessor of goods under Article 2 or 2A of this chapter to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Article 9 of this chapter. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (KRS 355.2-401) is limited in effect to a reservation of a "security interest."***~~[Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales (KRS 355.2-326).]~~

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee; and

(a) The original term of the lease is equal to or greater than the remaining economic life of the goods;

(b) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

(d) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that:

(a) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;

(c) The lessee has an option to renew the lease or to become the owner of the goods;

(d) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(e) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value," except as otherwise provided with respect to negotiable instruments and bank collections (KRS 355.3-303, 355.4-210, and 355.4-211) a person gives "value" for rights if he acquires them

- (a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or
- (b) As security for or in total or partial satisfaction of a pre-existing claim; or
- (c) By accepting delivery pursuant to a pre-existing contract for purchase; or
- (d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Section 158. KRS 355.2-103 is amended to read as follows:

(1) In this article unless the context otherwise requires

- (a) "Buyer" means a person who buys or contracts to buy goods.
- (b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.
- (c) "Receipt" of goods means taking physical possession of them.
- (d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance." KRS 355.2-606.
"Banker's credit." KRS 355.2-325.
"Between merchants." KRS 355.2-104.
"Cancellation." KRS 355.2-106 (4).
"Commercial unit." KRS 355.2-105.
"Confirmed credit." KRS 355.2-325.
"Conforming to contract." KRS 355.2-106.
"Contract for sale." KRS 355.2-106.
"Cover." KRS 355.2-712.
"Entrusting." KRS 355.2-403.
"Financing agency." KRS 355.2-104.
"Future goods." KRS 355.2-105.
"Goods." KRS 355.2-105.
"Identification." KRS 355.2-501.
"Installment contract." KRS 355.2-612.
"Letter of credit." KRS 355.2-325.
"Lot." KRS 355.2-105.
"Merchant." KRS 355.2-104.
"Overseas." KRS 355.2-323.
"Person in position of seller." KRS 355.2-707.
"Present sale." KRS 355.2-106.

"Sale." KRS 355.2-106.
"Sale on approval." KRS 355.2-326.
"Sale or return." KRS 355.2-326.
"Termination." KRS 355.2-106.

(3) The following definitions in other articles apply to this article:

"Check." KRS 355.3-104.
"Consignee." KRS 355.7-102.
"Consignor." KRS 355.7-102.
"Consumer goods." *Section 22 of this Act*[~~KRS 355.9-109~~].
"Dishonor." KRS *355.3-502*[~~355.3-507~~].
"Draft." KRS 355.3-104.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 159. KRS 355.2-210 is amended to read as follows:

(1) A party may perform his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) *Except as otherwise provided in Section 88 of this Act,* unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) ***The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but:***

(a) The seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer; and

(b) A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)[~~(4)~~]An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)[~~(5)~~]The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his rights against the assignor demand assurances from the assignee (KRS 355.2-609).

Section 160. KRS 355.2-326 is amended to read as follows:

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) [~~Except as provided in subsection (3), ~~]Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3)[~~ Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) complies with the filing provisions of the article on secured transactions (Article 9).~~

~~(4)~~] Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (KRS 355.2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (KRS 355.2-202).

Section 161. KRS 355.2-502 is amended to read as follows:

(1) Subject to ***subsections***[~~subsection~~] (2) ***and (3) of this section*** and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if***:***

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by contract; or

(b) In all cases, the seller becomes insolvent within ten (10) days after receipt of the first installment on their price.

(2) ***The buyer's right to recover the goods under subsection (1)(a) of this section vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.***

(3) If the identification creating his special property has been made by the buyer he acquires the right to recover the goods only if they conform to the contract for sale.

Section 162. KRS 355.2-716 is amended to read as follows:

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. ***In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.***

Section 163. KRS 355.2A-103 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

1. The lessor does not select, manufacture, or supply the goods;

2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

3. One of the following occurs:

a. The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

b. The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

c. The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

d. If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions." KRS 355.2A-310(1).
"Construction mortgage." KRS 355.2A-309(1)(d).
"Encumbrance." KRS 355.2A-309(1)(e).
"Fixtures." KRS 355.2A-309(1)(a).
"Fixture filing." KRS 355.2A-309(1)(b).
"Purchase money lease." KRS 355.2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account." ***Subsection (1)(b) of Section 22 of this Act***[~~KRS 355.9-106~~].
"Between merchants." KRS 355.2-104(3).
"Buyer." KRS 355.2-103(1)(a).
"Chattel paper." ***Subsection (1)(k) of Section 22 of this Act***[~~KRS 355.9-105(1)(b)~~].
"Consumer goods." ***Subsection (1)(w) of Section 22 of this Act***[~~KRS 355.9-109(1)~~].
"Document." ***Subsection (1)(ad) of Section 22 of this Act***[~~KRS 355.9-105(1)(f)~~].
"Entrusting." KRS 355.2-403(3).
"General ***intangible." Subsection (1)(ap) of Section 22 of this Act***[~~intangibles." KRS 355.9-106~~].
"Good faith." KRS 355.2-103(1)(b).
"Instrument." ***Subsection (1)(au) of Section 22 of this Act***[~~KRS 355.9-105(1)(i)~~].
"Merchant." KRS 355.2-104(1).
"Mortgage." ***Subsection (1)(bc) of Section 22 of this Act***[~~KRS 355.9-105(1)(k)~~].
"Pursuant to commitment." ***Subsection (1)(bp) of Section 22 of this Act***[~~KRS 355.9-105(1)(l)~~].
"Receipt." KRS 355.2-103(1)(c).
"Sale." KRS 355.2-106(1).
"Sale on approval." KRS 355.2-326.
"Sale or return." KRS 355.2-326.
"Seller." KRS 355.2-103(1)(d).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 164. KRS 355.2A-303 is amended to read as follows:

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of ***subsection (1)(c) of Section 29 of this Act***[~~KRS 355.9-102(1)(b)~~].

(2) Except as provided in ***subsection***[~~subsections~~] (3) ***of this section*** and ***Section 89 of this Act***[~~(4)~~], a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation, or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection ***(4) of this section***[~~(5)~~], but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3)[~~A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security~~

~~interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

~~(4)~~] A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5).

(4)[~~(5)~~]Subject to ***subsection***[~~subsections~~] (3) ***of this section*** and ***Section 89 of this Act***[~~(4)~~]:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in KRS 355.2A-501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)[~~(6)~~]A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)[~~(7)~~]Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)[~~(8)~~]In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 165. KRS 355.2A-307 is amended to read as follows:

(1) Except as otherwise provided in KRS 355.2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in ***subsection***[~~subsections~~] (3)[~~ and (4)~~] of this section and in KRS 355.2A-306 and 355.2A-308, a creditor of a lessor takes subject to the lease contract unless[~~:~~

~~(a)~~] the creditor holds a lien that attached to the goods before the lease contract became enforceable[~~;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (KRS 355.9-303) before the lease contract became enforceable~~].

(3) ***Except as otherwise provided in Sections 57, 61, and 63 of this Act, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor***[~~A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (KRS 355.9-303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five (45) days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period~~].

Section 166. KRS 355.2A-309 is amended to read as follows:

(1) In this section:

(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) A "fixture filing" is the filing, in the office where a ***record of a*** mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of ***subsections (1) and (2) of Section 93 of this Act***[~~KRS 355.9-402(5)~~];

(c) A lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) A mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this article of ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten (10) days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) The interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may:

(a) On default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this article; or

(b) If necessary to enforce other rights and remedies of the lessor or lessee under this article;

remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the article on secured transactions (Article 9).

Section 167. KRS 355.4-210 is amended to read as follows:

(1) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(a) In case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(b) In case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

(c) If it makes an advance on or against the item.

(2) If credit given for several items received at one (1) time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9 of this chapter, but:

(a) No security agreement is necessary to make the security interest enforceable ***(subsection (2)(c)1. of Section 33 of this Act)***[~~(KRS 355.9-203(1)(a))~~]; and

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 168. KRS 355.7-503 is amended to read as follows:

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (KRS 355.7-403) or with power of disposition under this chapter (KRS 355.2-403 and ***Section 60 of this Act***[~~355.9-307~~]) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under KRS 355.7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Section 169. KRS 355.8-103 is amended to read as follows:

(1) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(2) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this article and not by Article 3 of this chapter, even though it also meets the requirements of that article. However, a negotiable instrument governed by Article 3 of this chapter is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in ***subsection (1)(o) of Section 22 of this Act***[~~KRS 355.9-115~~], is not a security or a financial asset.

Section 170. KRS 355.8-106 is amended to read as follows:

(1) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(2) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(a) The certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(b) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(3) A purchaser has "control" of an uncertificated security if:

(a) The uncertificated security is delivered to the purchaser; or

(b) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder;[~~ or~~]

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder***; or***

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(5) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(6) A purchaser who has satisfied the requirements of subsection (3)[~~(b)~~] or (4)[~~(b)~~] of this section has control, even if the registered owner in the case of subsection (3)[~~(b)~~] of this section or the entitlement holder in the case of subsection (4)[~~(b)~~] of this section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(7) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (3)(b) or (4)(b) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Section 171. KRS 355.8-110 is amended to read as follows:

(1) The local law of the issuer's jurisdiction, as specified in subsection (4) of this section, governs:

(a) The validity of a security;

(b) The rights and duties of the issuer with respect to registration of transfer;

(c) The effectiveness of registration of transfer by the issuer;

(d) Whether the issuer owes any duties to an adverse claimant to a security; and

(e) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(2) The local law of the securities intermediary's jurisdiction, as specified in subsection (5) of this section, governs:

(a) Acquisition of a security entitlement from the securities intermediary;

(b) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(c) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(d) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(3) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(4) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this ***Commonwealth***[~~State~~] may specify the law of another jurisdiction as the law governing the matters specified in subsection (1)(b) to (e) of this section.

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder ***governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part of this article, this article, or Article 9 of this chapter***[~~specifies that it is governed by the law of a particular jurisdiction~~], that jurisdiction is the securities intermediary's jurisdiction.

(b) If ***paragraph (a) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.***

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the securities intermediary and its entitlement holder ***governing the securities account***[~~does not specify the governing law as provided in paragraph (a) of this subsection, but~~] expressly ***provides***[~~specifies~~] that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)[~~(c)~~]If ***none of the preceding paragraphs of this subsection applies***[~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection~~], the securities intermediary's jurisdiction is the jurisdiction in which[~~ is located~~] the office identified in an account statement as the office serving the entitlement holder's account ***is located***.

(e)[~~(d)~~]If ***none of the preceding paragraphs of this subsection applies***[~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or (b) of this subsection and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c) of this subsection~~], the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary ***is located***.

(6) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

Section 172. KRS 355.8-301 is amended to read as follows:

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ***is:***

1. Registered in the name of the purchaser;

2. Payable to the order of the purchaser; or

3. [~~has been ~~]Specially indorsed to the purchaser by an effective indorsement ***and has not been indorsed to the securities intermediary or in blank***.

(2) Delivery of an uncertificated security to a purchaser occurs when:

(a) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(b) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Section 173. KRS 355.8-302 is amended to read as follows:

(1) Except as otherwise provided in subsections (2) and (3) of this section, ***a purchaser***[~~ upon delivery~~] of a certificated or uncertificated security[~~ to a purchaser, the purchaser~~] acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 174. KRS 355.8-510 is amended to read as follows:

(1) ***In a case not covered by the priority rules in Article 9 of this chapter or the rules stated in subsection (3) of this section,*** an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under KRS 355.8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in Article 9 of this chapter, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. ***Except as otherwise provided in subsection (4) of this section,*** purchasers who have control rank ***according to priority in time of:***

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under subsection (4)(a) of Section 170 of this Act;

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to

security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under subsection (4)(b) of Section 170 of this Act; or

(c) If the purchaser obtained control through another person under subsection (4)(c) of Section 170 of this Act, the time on which priority would be based under this subsection if the other person were the secured party.

(4) ~~[equally, except that]~~A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 175. KRS 6.787 is amended to read as follows:

(1) The statement of financial interests required by KRS 6.781 shall be filed on a form prescribed by the commission. The commission shall provide copies of the form without charge to any person required to file.

(2) The statement shall include the following information for the preceding calendar year:

(a) Name, business address, business telephone number, and home address of the filer;

(b) Title of the filer's public position or office sought;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his spouse in any business, partnership, corporation for profit, or corporation not for profit from which the filer receives compensation, and the name of that business, partnership, or corporation;

(e) Names and addresses of all businesses, investments, or securities in which the filer, his spouse, or children has or had at any time during the preceding year an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) Sources of gross income of the filer and his spouse, information concerning the source, and the form of the income;

(g) All positions of a fiduciary nature in a business;

(h) A designation as commercial, residential, or rural, and the location of all real property, other than the filer's primary residence, in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his spouse, or children;

(i) Sources of gifts of money or property with a retail value of more than two hundred dollars ($200) to the filer or the filer's immediate family, except those from a member of the filer's family;

(j) The name of any creditor owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods. As used in this paragraph, the term "consumer goods" has the same meaning as in ***Section 22 of this Act***~~[KRS 355.9-109]~~;

(k) The name of any legislative agent who is:

1. A member of the filer's immediate family;
2. A partner of the filer, or a partner of a member of the filer's immediate family;
3. An officer or director of the filer's employer;
4. An employer of the filer or an employer of a member of the filer's immediate family; or
5. A business associate of the filer or a business associate of a member of the filer's immediate family;

(l) The names of any of the filer's clients who are legislative agents or employers; and

(m) An answer to the question, "If you have held a professional license during the filing period, has a properly licensed partner of yours engaged in the practice of cases or other matters which you are prohibited from practicing under KRS 6.744?" If the filer responds affirmatively, he shall also list the names of the clients represented and list the agencies before which the partner made an appearance. These lists shall be separate and need not identify which client was represented before a specific agency.

(3) Paragraphs (a) to (j) of subsection (2) of this section shall not require disclosure of specific dollar amounts. Paragraph (f) shall not require the disclosure of the names of clients or customers of business entities listed as sources of income.

Section 176. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire thereof does not exceed three (3) pages	$8.00
Exceeding three (3) pages, for each page	2.00
Copy and certification of same when ordered	5.00
Each bond required to be taken or prepared by the clerk	3.00
Copy of any bond when ordered	2.00

Recording a bond, each bond	8.00
Receiving the acknowledgment or proof of any deed, mortgage, or agreement, power of attorney, or other written instrument required by law to be done and certifying same	2.00
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of deed	5.00
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Certified copy of real estate mortgage	5.00
Recording deed of assignment of real estate mortgage	8.00
Noting release of any lien, mortgage, or redemption other than a deed of release	3.00
Receiving the acknowledgment, recording, and certifying each deed of release of a mortgage or lien under KRS 382.360	8.00
Each additional marginal notation relating to same instrument	3.00
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	8.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	8.00
Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	2.00
Administering an oath and certificate thereof	2.00
Issuing license for which no other fee is fixed by law	5.00
Marriage license, bond, certificate and recording	24.00
For filing and indexing an original or continuation financing statement,~~[and noting the security interest on the required receipt for one (1) motor vehicle]~~	8.00
For noting a security interest on a certificate of title under KRS Chapter 186A	***12.00***
For filing and indexing an assignment of a financing statement	8.00
For filing and noting a statement of release of collateral under a financing statement	5.00
~~[Issuance of a certification as provided in KRS 355.9-407~~	~~5.00~~
~~Certified copy of financing statement or statement of assignment as provided in KRS 355.9-407~~	~~5.00~~]
Recording real estate options, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00

Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	15.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Marginal notation to same instrument	3.00
Filing or recording of certification of intention to operate a business under an assumed name	8.00
Filing a lien on a delinquent motor vehicle or trailer bill	8.00
Releasing a lien on a delinquent motor vehicle or trailer bill	2.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	8.00
Filing or recording of notice of lien issued by the Internal Revenue Service	8.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	8.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording United States liens, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers ..	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	200.00
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	20.00
Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	20.00
Filing notification and declaration and petition of candidates for other offices	50.00
Filing declaration of intent to be a write-in candidate for office other than municipal office in a city of the fifth or sixth class	50.00
Filing declaration of intent to be a write-in candidate for municipal office in a city of the fifth or sixth class.	20.00
Recording wills or other probate documents under KRS 394.300	8.00
Registration of licenses for professional persons required to register with the county clerk	8.00
Recording and issuing articles, statements, or reports of corporations	

pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, for each page	2.00
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages (except military discharges)	8.00
Exceeding three (3) pages, each additional page	2.00
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page	2.00
Filing petitions other than nominating petitions, provided the petition does not exceed three (3) pages	8.00
Exceeding three (3) pages, each additional page, except that the total fee for filing a petition other than a nominating petition shall not exceed $50.00	2.00
Filing certification required by KRS 65.070(1)(a)	5.00
Certification of franchise tax assessment	5.00

Section 177. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement, or security agreement ***and on each notation of a security interest on a certificate of title under Section 179 of this Act***;

(d) A tax of three dollars ($3) on each conveyance of real property; and

(e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the Revenue Cabinet by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the cabinet.

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 178. KRS 186.045 is amended to read as follows:

(1)[~~Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the security interest was noted on the certificate of title. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the title lien statement. The county clerk shall enter the assignment of the perfected security interest into the automated vehicle information system. For this service the county clerk shall collect a fee pursuant to KRS 64.012.~~

~~(2)~~] Whenever a security interest has been discharged, other than by proceedings under ***Part 6 of Article 9 of KRS Chapter 355***[~~KRS 355.9-501 to 355.9-507~~] or similar proceedings, the secured party shall[~~, within ten (10) days thereafter,~~] deliver a termination statement in the manner required by ***Section 104 of this Act***[~~KRS 355.9-404~~] to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing such security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on such title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(2)[~~(3)~~]Upon presentation of the owner's title showing such security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If such record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If such record of termination has not been entered into the automated system, in no case shall the county clerk of the county other than where the termination statement was delivered, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(3)[~~(4)~~]Whenever any secured party repossesses a vehicle titled in this ***Commonwealth***[~~state~~], for which a security interest is in existence at the time of repossession, and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, must be shown on the title issued by the clerk unless the prior secured party has discharged such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(4)[~~(5)~~]Whenever any vehicle brought into this ***Commonwealth***[~~state~~] is required to be titled in this ***Commonwealth***[~~state~~] and such vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(5)[~~(6)~~]The fees provided for in this section are in addition to any state fee provided for by law.

(6)[~~(7)~~]Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(7)[~~(8)~~]The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 must be obtained from the clerk by the owner of the vehicle.

(8)[~~(9)~~]Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly titled herein under KRS Chapter 186A and the security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 179. KRS 186A.190 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and ***shall*** remain effective ***from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of fourteen (14) years, or*** until discharged under this chapter and KRS Chapter 186.

The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years[~~The perfection of an assignment of a security interest which has been noted on the certificate of title shall be in accordance with the provisions of KRS 186.045(1)~~].

(2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the ***following*** provisions [~~of KRS 355.9-401(5)(b) to (k) shall~~]govern the determination of the county of the debtor's residence***:***

(a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;

(f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(j) Any other organization (defined in Section 157 of this Act) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on such property's certificate of title. In other respects the security interest is governed by the provisions of KRS Chapter 355.

(3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, no subsequent title may be issued by any county clerk free of such notation unless the owner's title is presented to the clerk and it has been noted thereon, that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk.

(4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person after he provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. In the affidavit, the person shall attest that:

(a) He possesses the vehicle;

(b) A debt on the vehicle was owed him for more than thirty (30) days before he provided the notices required by paragraphs (c) and (d) of this subsection;

(c) More than fourteen (14) days before presenting the affidavit to the county clerk, the person attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, of his name, address, and telephone number as well as his intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objected in writing;

(d) More than fourteen (14) days before presenting the affidavit to the county clerk, the person had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:

1. The person's name, address, and telephone number;
2. The owner's name;
3. The names of all known lienholders, including those noted on the title;
4. The vehicle's make, model, and year; and
5. The person's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and

(e) Neither the owner nor a lienholder has objected in writing to the person's right to obtain title to the vehicle.

(5) No more than two (2) active security interests may be noted upon a certificate of title.

(6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.

(7) ~~[In lieu of any and all fees prescribed by statute and]~~For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive ***the fee prescribed by Section 176 of this Act***~~[ten dollars and fifty cents ($10.50) of which seven dollars and fifty cents ($7.50) shall be retained by the clerk and three dollars ($3) transmitted to the State Treasurer]~~. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.

(8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 180. KRS 186A.193 is amended to read as follows:

The title lien statement, provided for in KRS 186A.195, shall be developed by January 1, 1987 by the Transportation Cabinet, in cooperation with county clerks, financial institutions and auto dealers. The Transportation Cabinet shall ensure that the title lien statement is in a similar form and contains the same information as that provided for in ***subsection (1) of Section 93 of this Act***~~[KRS 355.9-402]~~ and, where applicable, include the year, make,~~[motor number]~~ and identification number of ***the titled property***~~[a motor vehicle]~~.

Section 181. KRS 186A.195 is amended to read as follows:

(1) As used in this chapter, a title lien statement is a document to be submitted by the secured party to the county clerk. Upon submission of the title lien statement, the county clerk shall use the information contained therein to note the security interest on the certificate of title. The county clerk may make title lien statements available to the general public. However, public availability of such statements is not necessary or effective to perfect a security interest in property required to be registered or titled in accordance with this chapter.

(2) If a title lien statement and the required fees accompany the application for first title of any property in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(6) into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190(6). The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(3) If a title lien statement and the required fees are not received at the time of application for first title of any property in the name of the owner due to owner's residency in another county, or if the form prescribed by KRS 186A.060 indicates a pending lien but the title lien statement does not accompany the application for title, the county clerk shall enter into the Automated Vehicle Information System (AVIS) the name and address of the lienholder and the county where the lien is to

be noted or that a lien is pending. The clerk shall indicate a title is not to be issued until the lien has been noted and fees, according to KRS 186A.190, paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the title lien statement and fees contained in KRS 186A.190, enter into the Automated Vehicle Information System (AVIS) the date of lien notation and the notation number, thus enabling the system to produce the title in Frankfort.

(4) Should a certificate of title be issued after the thirty (30) day period has expired without the notation of a security interest thereon, or should there be no provision made for a lien to be noted in the county of residence of the debtor within thirty (30) days and the title issued within that time, the secured party shall request from the debtor, and the debtor shall submit to the secured party, the certificate of title. The secured party shall submit the certificate of title along with the title lien statement to the county clerk of the county of the debtor's residence. The county clerk shall then enter the information required by KRS 186A.190(6) into the Automated Vehicle Information System (AVIS) and note on the certificate of title in the appropriate section the information described in that section. Following the notation of the appropriate information on the certificate of title, the county clerk shall return the title to the debtor.

(5) The security interest noted on the certificate of title shall be deemed perfected at the time the security interest attaches (KRS 355.9-203) if the secured party tenders the required fees and submits a properly completed title lien statement and application for first title or, in the case of property previously titled in the name of its debtor, the certificate of title to the appropriate county clerk within *twenty (20)*[~~ten (10)~~] days of attachment. Otherwise, the security interest shall be deemed perfected at the time that such fees are tendered and such documents are submitted to the appropriate county clerk.

Section 182. KRS 186A.200 is amended to read as follows:

(1) With respect to a vehicle previously titled in the name of its debtor, the secured party shall, within *twenty (20)*[~~fifteen (15)~~] days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one (1) prior lien indicated thereon, and present to the county clerk the certificate of title, which the secured party shall have the right to obtain from the debtor, together with the title lien statement and the required fees in KRS 186A.190 to the county clerk.

(2) For failure to present both the title and title lien statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by KRS 186A.190(6) into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by KRS 186A.190(6).

Section 183. KRS 382.200 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each county clerk shall make and keep an alphabetical cross-index of all conveyances recorded in his office, and when a mortgage or deed of trust, or any other conveyance, lease or contract is lodged in his office for record, he shall, at once and before attending to any other business, place the names of the parties to the instrument upon the cross-index in his office, and shall within six (6) days thereafter record the instrument.

(2) Chattel mortgages, financing statements or security agreements shall be filed and recorded in the manner set out in *Section 110 of this Act*[~~KRS 355.9-403~~].

SECTION 184. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Before a party possessing a security interest or lien against an equine interest that has been sold without the debt to the party being discharged may bring an action against the purchaser or selling agent of the equine interest, the secured party shall pursue a remedy against the debtor to the point where a judgment is rendered on the merits or the suit is dismissed with prejudice.

Section 185. KRS 425.011 is amended to read as follows:

(1) Upon filing of the complaint or at any time prior to judgment, in an action to recover the possession of specific personal property, the plaintiff may apply pursuant to this chapter for a writ of possession by filing a written motion for the writ with the court in which the action is brought.

(2) The motion shall be executed under oath and shall include all of the following:

(a) A showing of the basis of the plaintiff's claim and that the plaintiff is entitled to possession of the property claimed. If the basis of the plaintiff's claim is a written instrument, a copy of the instrument shall be attached.

(b) A showing that the property is wrongfully detained by the defendant, of the manner in which the defendant came into possession of the property, and, according to the best knowledge, information, and belief of the plaintiff the reason for the detention.

(c) A particular description of the property and a statement of its value. A description of property sufficient under *Section 28 of this Act*[~~KRS 355.9-110~~] shall meet the requirement of this section. The statement of value may be as to the worth of the property as a whole.

(d) A statement, according to the best knowledge, information and belief of the plaintiff, of the location of the property and if the property, or some part of it, is within a private place which may have to be entered to take possession a showing that there is probable cause to believe that such property is located there. Although such showing may be based on information and belief the judicial officer at the hearing herein provided must be presented with facts sufficient to show that the information and the informant are credible and reliable.

(e) A statement that the property has not been taken for a tax assessment, or fine, pursuant to a statute; or seized under an execution against the property of the plaintiff; or if so seized, that it is by statute exempt from such seizure.

(3) The requirements of subsection (2) of this section may be satisfied by one (1) or more affidavits filed with the application.

SEGMENT E

NONCODIFIED MATERIAL

Section 186. The following KRS sections are repealed:

186A.196	Validity of existing lien.
186A.197	Issuance of certificate of title noting existing liens.
355.9-112	Where collateral is not owned by debtor.
355.9-113	Security interest arising under article on sales or article on leases.
355.9-114	Consignment.
355.9-115	Investment property.
355.9-116	Security interest arising in purchase or delivery of financial asset.
355.11-102	Use of terminology.
355.11-103	Transition to new code -- General rule.
355.11-104	Transition provision on change of requirement of filing.
355.11-105	Transition provision on change of place of filing.
355.11-106	Required refilings.
355.11-107	Transition provisions as to priorities.
355.11-108	Presumption that rule of law continues unchanged.

Section 187. The following KRS section is repealed:

355.9-401A	Filing of financing statement and related documents with Secretary of State.

Section 188. Sections 1 to 18 of this Act applies to a letter of credit that is issued on or after the effective date of Sections 1 to 18 of this Act. Sections 1 to 18 of this Act do not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of Sections 1 to 18 of this Act.

Section 189. A transaction arising out of or associated with a letter of credit that was issued before the effective date of Sections 1 to 18 of this Act and the rights, obligations, and interests flowing from that transaction are governed by any statute or other law amended or repealed by this Act as if repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under that statute or other law.

Section 190. The amendment to KRS 186A.190(1) contained in Section 179 of this Act shall be retroactive in nature and apply to notations on certificates of titles already in existence on the effective date of Sections 21 to 156 of this Act. The effectiveness of those existing notations that would otherwise expire on the effective date of Sections 21 to 156 of this Act, or within the first six months following that date, is hereby extended until six months after the effective date of Sections 21 to 156 of this Act. For these notations, the filing of a continuation statement within the first six months following the effective date of Sections 21 to 156 of this Act shall operate to extend the expiration date of the notation for seven (7) additional years from the date that the notation would have expired under KRS 186A.190(1), as amended in Section 179 of this Act.

Section 191. Sections 1 to 186, 188, 189, and 190 of this Act become effective on July 1, 2001.

SB 52, AN ACT relating to parents who have abandoned a child.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

A parent who has willfully abandoned the care and maintenance of his or her child shall not have a right to intestate succession in any part of the estate and shall not have a right to administer the estate of the child, unless:

(1) The abandoning parent had resumed the care and maintenance at least one (1) year prior to the death of the child and had continued the care and maintenance until the child's death; or

(2) The parent had been deprived of the custody of his or her child under an order of a court of competent jurisdiction and the parent had substantially complied with all orders of the court requiring contribution to the support of the child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

A parent who has willfully abandoned the care and maintenance of his or her child shall not have a right to maintain a wrongful death action for that child and shall not have a right otherwise to recover for the wrongful death of that child, unless:

(1) The abandoning parent had resumed the care and maintenance at least one (1) year prior to the death of the child and had continued the care and maintenance until the child's death; or

(2) The parent had been deprived of the custody of his or her child under an order of a court of competent jurisdiction and the parent had substantially complied with all orders of the court requiring contribution to the support of the child.

SECTION 3. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

Section 1 of this Act may be cited as Mandy Jo's Law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Section 2 of this Act may be cited as Mandy Jo's Law.

SB 116, AN ACT relating to victims of crime.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.280 is amended to read as follows:

(1) ***(a)*** The Department of Corrections shall provide or contract with a private entity to provide to members of the public who have made a notification request, notification of the release of an incarcerated person from a ***penitentiary, as defined in KRS 197.010,*** juvenile detention facility, regional jail, or county jail. The ***warden,*** jailer, or chief administrator, or a person designated by the ***warden,*** jailer, or chief administrator, of a ***penitentiary,*** juvenile detention facility, regional jail, or county jail, shall make available to the Department of Corrections, or any private entity under contract with the Department of Corrections, the information necessary to implement this section in a timely manner ***and before the release of any incarcerated person from the penitentiary, juvenile detention facility, regional jail, or county jail***. The Department of Corrections or the private entity under contract with the Department of Corrections shall be responsible for retrieving the information and notifying the requester in accordance with administrative regulations promulgated by the Department of Corrections.

(b) If an incarcerated person escapes from any penitentiary, juvenile detention facility, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall immediately provide the information necessary to implement this section.

(c) If, upon a hearing, a court releases an incarcerated person and the incarcerated person does not return to the penitentiary, juvenile detention facility, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall provide the information necessary to implement this section as soon as practicable.

(2) The Department of Corrections shall promulgate administrative regulations for the implementation of this section.

(3) Notwithstanding KRS 610.320 or 610.340, this section shall require the release of information relating to juveniles who have been charged with a felony offense pursuant to KRS Chapters 507, 508, 509, 510, or 515, or KRS 530.020, 530.064, or 531.310. The release of information shall be limited to the extent necessary to comply with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person who commits the conduct prohibited under KRS 508.140 or 508.150 shall be civilly liable to the person damaged by the violation. Such liability shall include the actual damages caused by the violation and may include punitive damages, court costs, and reasonable attorney's fees. A civil action may be maintained under this section whether or not the individual who is alleged to have violated KRS 508.140 or 508.150 has been charged or convicted of the alleged crime.

Section 3. KRS 431.064 is amended to read as follows:

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapters 508 or 510, or charged with a crime involving a violation of a protective order issued pursuant to KRS 403.740 or 403.750, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:

(a) Is a threat to the alleged victim or other family or household member; and

(b) Is reasonably likely to appear in court.

(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1), and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

(a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;

(b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;

(c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;

(d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

(e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;

(f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or

(g) Any combination of the orders set out in paragraphs (a) to (f).

(3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:

(a) Issue a written order for conditional release; and

(b) Immediately distribute a copy of the order to pretrial services.

(4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.

(5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.

(6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.

(7) ***The circuit clerk, or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) business hours following its filing. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.***

(8) The information entered under this section shall be accessible to any agency designated by the Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.

(9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pre-trial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

(10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

Section 4. KRS 438.250 is amended to read as follows:

(1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis A, B, and C, and tuberculosis.

(2) The written results of the testing shall be made available to each public servant, ***victim of the crime,*** criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis. ***The victim of the crime shall receive written results as provided in KRS 510.320.***

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Section 5. KRS 510.320 is amended to read as follows:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health Services.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health Services to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.

(c) ***The Cabinet for Health Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.***

(d) In addition, the Cabinet for Health Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

The House Committee Substitute No. 1 to **SB 116** is as follows:

SB 116, AN ACT relating to victims of crime.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.280 is amended to read as follows:

(1) ***(a)*** The Department of Corrections shall provide or contract with a private entity to provide to members of the public who have made a notification request, notification of the release of an incarcerated person from a ***penitentiary, as defined in KRS 197.010,*** juvenile detention facility, regional jail, or county jail. The ***warden,*** jailer***,*** or chief administrator, or a person designated by the ***warden,*** jailer***,*** or chief administrator, of a ***penitentiary,*** juvenile detention facility, regional jail, or county jail, shall make available to the Department of Corrections, or any private entity under contract with the Department of Corrections, the information necessary to implement this section in a timely manner ***and before the release of any incarcerated person from the penitentiary, juvenile detention facility, regional jail, or county jail***. The Department of Corrections or the private entity under contract with the Department of Corrections shall be responsible for retrieving the information and notifying the requester in accordance with administrative regulations promulgated by the Department of Corrections.

(b) If an incarcerated person escapes from any penitentiary, juvenile detention facility, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall immediately provide the information necessary to implement this section.

(c) If, upon a hearing, a court releases an incarcerated person and the incarcerated person does not return to the penitentiary, juvenile detention facility, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall provide the information necessary to implement this section as soon as practicable.

(2) The Department of Corrections shall promulgate administrative regulations for the implementation of this section.

(3) Notwithstanding KRS 610.320 or 610.340, this section shall require the release of information relating to juveniles who have been charged with a felony offense pursuant to KRS Chapters 507, 508, 509, 510, or 515, or KRS 530.020, 530.064, or 531.310. The release of information shall be limited to the extent necessary to comply with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

A civil action may be maintained under this section against any person who commits the conduct prohibited under KRS 508.140 or 508.150. A civil action may be maintained under this section whether or not the individual who is alleged to have violated KRS 508.140 or 508.150 has been charged or convicted of the alleged crime. Liability under this section shall include the actual damages caused by the violation and may include punitive damages, court costs, and reasonable attorney's fees. An action under this section shall be brought within two (2) years of the last act of conduct in violation of this section.

Section 3. KRS 431.064 is amended to read as follows:

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapters 508 or 510, or charged with a crime involving a violation of a protective order issued pursuant to KRS 403.740 or 403.750, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:

(a) Is a threat to the alleged victim or other family or household member; and

(b) Is reasonably likely to appear in court.

(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1), and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

(a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;

(b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;

(c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;

(d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

(e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;

(f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or

(g) Any combination of the orders set out in paragraphs (a) to (f).

(3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:

(a) Issue a written order for conditional release; and

(b) Immediately distribute a copy of the order to pretrial services.

(4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.

(5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.

(6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.

(7) ***The circuit clerk, or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.***

(8) The information entered under this section shall be accessible to any agency designated by the Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.

(9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pre-trial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

(10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

Section 4. KRS 438.250 is amended to read as follows:

(1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV), hepatitis A, B, and C, and tuberculosis.

(2) The written results of the testing shall be made available to each public servant, ***victim of the crime,*** criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis. ***The victim of the crime shall receive written results as provided in KRS 510.320.***

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

Section 5. KRS 510.320 is amended to read as follows:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health Services.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health Services to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.

(c) ***The Cabinet for Health Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.***

(d) In addition, the Cabinet for Health Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

SB 137, AN ACT relating to criminal records checks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health Services, to the applicant for initial employment in a nursing facility or nursing pool providing staff to a nursing facility or in a position funded by the Department for Social Services or the Office of Aging Services of the Cabinet for Families and Children and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet ***or the Administrative Office of the Courts***. The Justice Cabinet ***or the Administrative Office of the Courts*** may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request~~[and shall not exceed five dollars ($5) per application]~~.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) In any instance that the Justice Cabinet is required by statute to conduct a criminal records or background check, the Justice Cabinet may contract with the Administrative Office of the Courts to perform that service.

(2) (a) Except as provided in paragraph (b) of this subsection, the Administrative Office of the Courts shall set a reasonable fee for a criminal records check conducted by the office in an amount no greater than the actual cost of conducting that criminal records check.

(b) When another statute sets the dollar amount of the fee charged for a criminal records check conducted by the Administrative Office of the Courts, the office shall charge that fee.

(3) The Administrative Office of the Courts shall be required to accept a criminal records check request only when the request is made:

(a) By letter, electronic mail, or facsimile transmission; or

(b) In person.

(4) The Administrative Office of the Courts may establish an escrow account for a person who frequently requests that the office conduct criminal records checks.

SB 167, AN ACT relating to criminal records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.076 is amended to read as follows:

(1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records including, but not limited to, arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge.

(2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.

(3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. ***In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Families and Children of an opportunity for a response to the expungement motion. The counsel for the Cabinet for Families and Children shall respond to the expungement motion if the Cabinet for Families and Children has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.***

(4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required sealing action has been completed. All orders enforcing the expungement procedure shall also be sealed.

(5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other

agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Inspection of the expunged records may thereafter be permitted by the court only upon a motion by the person who is the subject of the records and only to those persons named in the motion.

(7) This section shall be retroactive.

The House Committee Amendment No. 1 to **SB 167** is as follows:

On page 1, line 18, after "***motion***" insert "***, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court,***"; and

On page 1, line 21, after "***neglect.***" insert "***If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records.***"

SB 189, AN ACT relating to the Kentucky Commission on Human Rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice other than a discriminatory housing practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (referred to as the respondent in this section, KRS 344.210, 344.230, and 344.240). The commission staff or a person designated pursuant to its administrative regulations shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its administrative regulations shall determine within thirty (30) days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice ***unless:***

(a) It is impracticable to make the determination; or

(b) The commission has approved a conciliation agreement relating to the unlawful practice.

(3) If it is impracticable to make the determination within the time period provided by subsection (2) of this section, the commission shall notify the complainant and the respondent in writing of the reason for the delay.

(4) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(5)[~~(3)~~]The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon receiving a reconsideration application, the commission or an individual designated pursuant to administrative regulation shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(6)[~~(4)~~]If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, ***mediation,*** and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make any further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and any other public officers and persons that the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(7)[~~(5)~~]At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take whatever action it deems appropriate to assure compliance.

(8)~~[(6)]~~At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

(9)~~[(7)]~~Nothing in this section shall apply to any discriminatory housing practice.

Section 2. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after~~[a complaint other than a complaint alleging a discriminatory housing practice is filed, unless]~~ the commission has issued ***a probable cause determination on a complaint other than a complaint alleging a discriminatory housing practice***~~[an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200]~~, the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing held in accordance with this chapter and the provisions of KRS Chapter 13B. A copy of the notice shall be furnished to the complainant, the Attorney General, and any other public officers and persons that the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation, or persuasion shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent shall file an answer with the commission by certified mail within twenty (20) days after receipt by the respondent of service under KRS 344.200. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of final order pursuant to this section based on the complaint, but no final order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the final order is based.

(4) An administrative hearing on a discriminatory housing practice shall be held pursuant to this section and KRS 344.640 and administrative regulations promulgated pursuant to this chapter.

Section 3. KRS 344.240 is amended to read as follows:

(1) Any complainant, respondent, or intervenor aggrieved by a final order of the commission, including a final order dismissing any complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the commission may obtain an order of the court for enforcement of its final order, in a proceeding brought in the Circuit Court in a county in which the alleged unlawful practice which is the subject of the final order or complaint occurs or in which a respondent resides or has his principal place of business.

(2) Except for a discriminatory housing practice, if the commission has failed to schedule a hearing in accordance with KRS 344.210(1)~~[or has failed to issue a final order within one hundred eighty (180) days after the complaint is filed]~~, the complainant, respondent, Attorney General, or an intervenor may petition the Circuit Court in a county in which the alleged unlawful practice set forth in the complaint occurs or in which the petitioner resides or has his principal place of business for an order directing the commission to schedule a hearing~~[or to issue its final order]~~. The court shall follow the procedure set forth in KRS Chapter 13B and this section so far as applicable.

(3) If before the expiration of sixty (60) days after the date of the commission order is entered for a discriminatory housing practice and no petition for review has been filed under subsection (1) of this section, any person entitled to under the discriminatory housing practice order may petition for a decree enforcing the order in the Circuit Court for the county in which the discriminatory housing practice is alleged to have occurred.

(4) Except for subsection (2) of this section, all provisions in this section shall apply to orders issued in a discriminatory housing practice proceeding.

(5) In any case in which an order of the commission is appealed, the court shall require the appellant to post a bond, with good and sufficient surety, in the sum the court deems proper, for the payment of the costs and damages as may be incurred or suffered by the appellee as a result of the filing and pendency of the appeal. Failure to post the bond as required by the court shall result in the dismissal of the appeal.

Section 4. KRS 344.640 is amended to read as follows:

(1) If a timely election of a judicial or administrative remedy is not made under KRS 344.635, with respect to a discriminatory housing charge, the commission shall provide an opportunity for an administrative hearing in accordance with the provisions of this chapter and KRS Chapter 13B with respect to the charge issued under KRS 344.625.

(2) ***The commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, mediation, and persuasion, but*** any resolution of a discriminatory housing charge before a final order under this section shall require

the consent of the aggrieved person on whose behalf the discriminatory housing charge is issued.

(3) The provisions of KRS 13B.140 notwithstanding, the commission may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a state or federal law, seeking relief with respect to that discriminatory housing practice.

Section 5. KRS 344.290 is amended to read as follows:

It is an unlawful practice for a party to a conciliation agreement made pursuant to subsection *(6)*[~~(4)~~] of KRS 344.200 to violate the terms of the agreement.

The House Committee Substitute No. 1 to **SB 189** is as follows:

SB 189, AN ACT relating to the Kentucky Commission on Human Rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice other than a discriminatory housing practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (referred to as the respondent in this section, KRS 344.210, 344.230, and 344.240). The commission staff or a person designated pursuant to its administrative regulations shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its administrative regulations shall determine within thirty (30) days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice ***unless:***

(a) It is impracticable to make the determination; or

(b) The commission has approved a conciliation agreement relating to the unlawful practice.

(3) If it is impracticable to make the determination within the time period provided by subsection (2) of this section, the commission shall notify the complainant and the respondent in writing of the reason for the delay.

(4) If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(5)[~~(3)~~]The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon receiving a reconsideration application, the commission or an individual designated pursuant to administrative regulation shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(6)[~~(4)~~]If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, ***mediation,*** and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make any further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and any other public officers and persons that the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(7)[~~(5)~~]At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take whatever action it deems appropriate to assure compliance.

(8)[~~(6)~~]At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking

appropriate temporary relief against the respondent, pending final determination of proceedings including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

(9)~~[(7)]~~Nothing in this section shall apply to any discriminatory housing practice.

Section 2. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after~~[a complaint other than a complaint alleging a discriminatory housing practice is filed, unless]~~ the commission has issued ***a probable cause determination on a complaint other than a complaint alleging a discriminatory housing practice, but not later than one hundred twenty (120) days after the filing of the complaint***~~[an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200]~~, the commission shall serve on the respondent by certified mail a written-notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing held in accordance with this chapter and the provisions of KRS Chapter 13B. A copy of the notice shall be furnished to the complainant, the Attorney General, and any other public officers and persons that the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation, or persuasion shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent shall file an answer with the commission by certified mail within twenty (20) days after receipt by the respondent of service under KRS 344.200. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of final order pursuant to this section based on the complaint, but no final order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the final order is based.

(4) An administrative hearing on a discriminatory housing practice shall be held pursuant to this section and KRS 344.640 and administrative regulations promulgated pursuant to this chapter.

Section 3. KRS 344.240 is amended to read as follows:

(1) Any complainant, respondent, or intervenor aggrieved by a final order of the commission, including a final order dismissing any complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the commission may obtain an order of the court for enforcement of its final order, in a proceeding brought in the Circuit Court in a county in which the alleged unlawful practice which is the subject of the final order or complaint occurs or in which a respondent resides or has his principal place of business.

(2) Except for a discriminatory housing practice, if the commission has failed to schedule a hearing in accordance with KRS 344.210(1)~~[or has failed to issue a final order within one hundred eighty (180) days after the complaint is filed]~~, the complainant, respondent, Attorney General, or an intervenor may petition the Circuit Court in a county in which the alleged unlawful practice set forth in the complaint occurs or in which the petitioner resides or has his principal place of business for an order directing the commission to schedule a hearing~~[or to issue its final order]~~. The court shall follow the procedure set forth in KRS Chapter 13B and this section so far as applicable.

(3) If before the expiration of sixty (60) days after the date of the commission order is entered for a discriminatory housing practice and no petition for review has been filed under subsection (1) of this section, any person entitled to under the discriminatory housing practice order may petition for a decree enforcing the order in the Circuit Court for the county in which the discriminatory housing practice is alleged to have occurred.

(4) Except for subsection (2) of this section, all provisions in this section shall apply to orders issued in a discriminatory housing practice proceeding.

(5) In any case in which an order of the commission is appealed, the court may require the appellant to post a bond, with good and sufficient surety, in the sum the court deems proper, for the payment of the costs and damages as may be incurred or suffered by the appellee as a result of the filing and pendency of the appeal. Failure to post the bond as required by the court shall result in the dismissal of the appeal.

Section 4. KRS 344.640 is amended to read as follows:

(1) If a timely election of a judicial or administrative remedy is not made under KRS 344.635, with respect to a discriminatory housing charge, the commission shall provide an opportunity for an administrative hearing in accordance with the provisions of this chapter and KRS Chapter 13B with respect to the charge issued under KRS 344.625.

(2) ***The commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, mediation, and persuasion, but*** any resolution of a discriminatory housing charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the discriminatory housing charge is issued.

(3) The provisions of KRS 13B.140 notwithstanding, the commission may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced

by the aggrieved party under a state or federal law, seeking relief with respect to that discriminatory housing practice.

Section 5. KRS 344.290 is amended to read as follows:

It is an unlawful practice for a party to a conciliation agreement made pursuant to subsection ***(6)***~~[(4)]~~ of KRS 344.200 to violate the terms of the agreement.

SB 198, AN ACT relating to marriage licenses

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.100 is amended to read as follows:

Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a marriage license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

(1) A marriage license which provides for the entering of:

  (a) An authorization statement of the county clerk issuing the license for any person licensed or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;

  (b) Vital information for each party, including the full name, ***Social Security number,*** date of birth, place of birth, race, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, full names of parents; and

  (c) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license.

(2) A marriage certificate which provides for the entering of:

  (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;

  (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;

  (c) A dated signature of the person performing the ceremony; and

  (d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.

(3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:

  (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date the license was issued, the name of the county clerk under whose authority the license was issued, and the county in which the license was issued; and

  (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.

(4) A Social Security number required for the marriage license shall be stored by the county clerk with a nonidentifying numeric and the nonidentifying numeric shall be recorded on the marriage license form. The Social Security number shall not be available for public release except for use by the Cabinet for Families and Children in efforts to enforce child support.

SB 223, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 506.140 is amended to read as follows:

(1) A person is guilty of criminal gang recruitment when he solicits or entices another person to join a ***criminal*** gang, or intimidates or threatens another person because the other person:

(a) Refuses to join a criminal gang;

(b) Has withdrawn or is attempting to withdraw from a criminal gang; or

(c) Refuses to submit to a demand made by a criminal gang.

(2) ***As used in this chapter:***

(a) "Criminal gang" means any alliance, network, or conspiracy, in law or in fact, of five (5) or more persons with an established hierarchy that, through its membership or through the action of any member, engages in a continuing pattern of criminal activity. "Criminal gang" shall not include fraternal organizations, unions, corporations, associations, or similar entities, unless organized for the primary purpose of engaging in criminal activity.

(b) "Continuing pattern of criminal activity" means a conviction by any member or members of a criminal gang for the commission, attempt, or solicitation of two (2) or more felony offenses, the commission of two (2) or more violent misdemeanor offenses, or a combination of at least one (1) of these felony offenses and one (1) of these violent misdemeanor offenses, on separate occasions within a two (2) year period for the purpose of furthering gang activity.

(c) "Violent misdemeanor offense" means KRS 508.030, 508.050, 508.070, 508.080, 508.120, 508.150, 509.030, and 509.080.

(3) Criminal gang recruitment is a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

Section 2. KRS 506.150 is amended to read as follows:

(1) ***To establish the existence of a "criminal gang" as defined in Section 1 of this Act, any competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including the following:***

(a) Self-proclamation;

(b) A common name, insignia, flag, or means of recognition;

(c) Common identifying hand or body signs, signals, or code;

(d) A common identifying mode, style, or color of dress;

(e) An identifying tattoo or body marking;

(f) Membership, age, or other qualifications;

(g) Creed of belief;

(h) An organizational or command structure, overt or covert;

(i) A de facto claim of territory or jurisdiction;

(j) An initiation ritual;

(k) A concentration or specialty; or

(l) A method of operation or criminal enterprise.

(2) It is no defense to prosecution under KRS[~~ 506.130 or~~] 506.140 that:

(a) One (1) or more members of the gang are not criminally responsible for the offense;

(b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;

(c) A person has been charged with, acquitted, or convicted of any offense under KRS[~~ 506.130 or~~] 506.140;

(d) The participants may not know each other's identity;

(e) The membership in the criminal gang may change from time to time; or

(f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.

(3)[~~(2)~~]Once the initial combination of five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing ***pattern of criminal activity as defined in Section 1 of this Act***[~~course of conduct~~] constituting a violation of KRS[~~ 506.130 or~~] 506.140.

Section 3. The following KRS section is repealed:

506.130 Engaging in furtherance of criminal gang activity -- Enhancement of penalty.

SB 257, AN ACT relating to limitation of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice.

(f) ***A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A.***

(g) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(h)[~~(g)~~] An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(i)[~~(h)~~] An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(j)[~~(i)~~] An action for the recovery of damages or the value of stolen property, against the thief or any accessory.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(3) ***In respect to the action referred to in paragraph (f) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.***

(4) In respect to the action referred to in paragraph *(h)*[~~g~~] of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5)[~~(4)~~]In respect to the action referred to in paragraph *(i)*[~~(h)~~] of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(6)[~~(5)~~]In respect to the action referred to in paragraph *(j)*[~~(i)~~] of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

SB 298, AN ACT relating to crimes and punishments.

WHEREAS, over several sessions, the Kentucky General Assembly has enacted legislation that has significantly reduced Kentucky drunk driving accidents, injuries, and deaths; and

WHEREAS, the Kentucky General Assembly intends to continue to enact such legislation; and

WHEREAS, the United States Congress, through enactment of 23 U.S.C. sec. 164 (1998), a part of the Transportation Equity Act for the 21st Century, has mandated that the states penalize an individual who is a repeat drunk driver offender by impounding or immobilizing each of that individual's motor vehicles or by installing an ignition interlock system on each of that individual's motor vehicles; and

WHEREAS, the United States Congress, through enactment of 23 U.S.C. sec. 154 (1998), a part of the Transportation Equity Act for the 21st Century, has mandated that each state prohibit the possession of any open alcoholic beverage container or the consumption of any alcoholic beverage in the passenger area of any motor vehicle, including possession or consumption by the driver of the vehicle, located on a public highway or the right-of-way of a public highway in the state;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) ***For the purposes of this section and Sections 2 and 3 of this Act, "ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a***

motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration, as defined in KRS 189A.005, exceeds 0.02, as measured by the device.

(2) (a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of KRS 189A.070 other than KRS 189A.070(1)(a), the court shall also order that at the conclusion of the license revocation the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or third violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of KRS 189A.010 or for a violation of KRS 189A.090. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

(3) Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:

(a) Transmit its order and other appropriate information to the Transportation Cabinet;

(b) Direct that the Transportation Cabinet records reflect:

1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection (2) of this section; and

2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection (2) of this section;

(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection (2) of this section applies, the notation shall indicate the exception;

(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;

(e) Require the person to have the device serviced and monitored at least every ninety (90) days for proper functioning by an entity approved by the Transportation Cabinet; and

(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.

(4) The Transportation Cabinet shall:

(a) Certify ignition interlock devices for use in this Commonwealth;

(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;

(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection (3) of this section;

(d) Publish and periodically update on the Transportation Cabinet website a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;

(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in Section 3 of this Act; and

(f) Promulgate administrative regulations to carry out the provisions of this subsection.

Section 2. KRS 189A.410 is amended to read as follows:

(1) At any time following conviction for a first offense violation of KRS 189A.010 the court shall grant the person hardship driving privileges for the final sixty (60) days of his initial ninety (90) day revocation, upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) *No earlier than one (1) year following the revocation and in compliance with the requirements of subsection (2)(b) of Section 1 of this Act of a person's license under any provision of KRS 189A.070 other than KRS 189A.070(1)(a), that person may petition the court to grant him or her hardship driving privileges for the remainder of the revocation. The court shall grant the hardship driving privileges for the remainder of the revocation if:*

(a) The court finds reasonable cause to believe that revocation would hinder the person's ability to:

1. Continue his or her employment;

2. Continue attending school or an education institution;

3. Obtain necessary medical care;

4. Attend driver improvement, alcohol, or substance abuse education programs; or

5. Attend court-ordered counseling or other programs; and

(b) The court through court order:

1. Prohibits the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device, as defined in subsection (1) of Section 1 of this Act;

2. Requires that the person comply with all the requirements of Section 1 of this Act, except for the requirements found in subsection (2) of Section 1 of this Act; and

3. Requires the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle pursuant to this section.

At the conclusion of the license revocation during which the person has held hardship driving privileges under this subsection, the person shall be subject to all the requirements of Section 1 of this Act.

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

SECTION 3. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) (a) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under subsection (2) of Section 1 of this Act or under subsection (2)(b) of Section 2 of this Act.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor and have his or her license to operate a motor vehicle or motorcycle revoked by the court for twelve (12) months;

2. For a second offense, be guilty of a Class A misdemeanor and have his or her license to operate a motor vehicle or motorcycle revoked by the court for twenty-four (24) months; and

3. For a third or subsequent offense, be guilty of a Class D felony and have his or her license to operate a motor vehicle or motorcycle revoked by the court for sixty (60) months.

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in subsection (2) of Section 1 of this Act or under subsection (2)(b) of Section 2 of this Act.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or

2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 4. KRS 189A.080 is amended to read as follows:

(1) All licenses suspended or revoked pursuant to KRS 189A.060***,***[~~ or~~] 189A.070(1)***, or subsection (1) of Section 3 of this Act*** shall be surrendered to the court. Other revocations pursuant to this chapter shall be administered by the Transportation Cabinet.

(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to KRS 189A.060***,***[~~ or~~] 189A.070(1)***, or subsection (1) of Section 3 of this Act*** is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the Transportation Cabinet.

(3) At the end of the period of license suspension or revocation, imposed pursuant to KRS 189A.060***,***[~~ or~~] 189A.070(1)***, or subsection (1) of Section 3 of this Act***, the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the Transportation Cabinet for other reasons, the license shall be returned.

Section 5. KRS 189A.090 is amended to read as follows:

(1) No person shall operate a motor vehicle while his license is revoked or suspended for violation of KRS 189A.010 ***or subsection (2) of Section 1 of this Act***, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010 ***or subsection (2) of Section 1 of this Act***.

(2) Any person who violates subsection (1) of this section shall:

(a) For a first offense, be guilty of a Class B misdemeanor;

(b) For a second offense, be guilty of a Class A misdemeanor;

(c) For a third or subsequent offense, be guilty of a Class D felony.

(3) In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation.

Section 6. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet

shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, *subsection (1) of Section 3 of this Act,* and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

Section 7. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person, including the driver, is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For the purposes of this section, "alcoholic beverage" includes distilled spirits, wine, beer, and malt beverages that consist of not less than three and two-tenths percent (3.2%) alcohol by weight.

SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) A person, including the driver, is guilty of consumption of an alcoholic beverage in a motor vehicle, when he or she swallows any alcoholic beverage in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the consumption of an alcoholic beverage by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(2) For the purposes of this section, "alcoholic beverage" includes distilled spirits, wine, beer, and malt beverages that consist of not less than three and two-tenths percent (3.2%) alcohol by weight.

Section 9. KRS 222.202 is amended to read as follows:

(1) A person is guilty of alcohol intoxication when he appears in a public place manifestly under the influence of alcohol to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) A person is guilty of drinking alcoholic beverages in a public place when he drinks an alcoholic beverage in a public place, or[~~ in or~~] upon any passenger coach, or other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, or waiting room.

Section 10. KRS 222.990 is amended to read as follows:

(1) Any licensee or other person operating a private facility who fails to furnish any such data, statistics, schedules or information as required, or who files fraudulent returns thereof shall be subject to a fine of not more than five hundred dollars ($500).

(2) Whoever knowingly establishes or maintains a private facility without a license granted pursuant to this section shall, for a first offense, be subject to a fine of not more than five hundred dollars ($500) and for each subsequent offense by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than two (2) years, or both.

(3) ***A person guilty of consumption of an alcoholic beverage in a motor vehicle, as described in Section 8 of this Act, shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).***

(4) A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place shall, for a first or second offense be fined not less than twenty-five dollars ($25).

(5)[~~(4)~~]A person guilty of alcohol intoxication, or drinking alcoholic beverages in a public place, shall for a third or subsequent offense within a twelve (12) month period be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), or be imprisoned in the county jail for not less than five (5) nor more than ninety (90) days, or both. Subsequent offenses not within the twelve (12) month proscription of this section shall be dealt with under subsection (3) of this section.

(6)[~~(5)~~]In addition to any other penalty prescribed by law for violation of subsections (1) and (2) of KRS 222.202, the court may sentence the person to an alcohol or substance abuse treatment or education program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of up to six (6) months and the program shall provide an assessment to the court of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment or education program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may upon written recommendation to the court by the administrator of the program, be released by the court prior to the expiration of the six (6) month period.

(d) Failure to complete the treatment program or to pay the amount specified by the treatment program shall constitute contempt of court and the court may, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of treatment or education program.

Section 11. KRS 222.201 is amended to read as follows:

As used in KRS 222.202 to 222.204, 222.990(3) to *(6)*[~~(5)~~], "public place" shall have the same meaning as it does in KRS 525.010, provided that for violations of KRS 222.202(2) the definition shall not include any public place where a license under KRS Chapter 243 to sell distilled spirits, wine or beer by the drink has been obtained.

Section 12. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) ***(a)*** Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates subsection (2) of Section 7 of this Act shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

  (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

  (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

The House Committee Substitute No. 1 to **SB 298** is as follows:

SB 298, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused ***if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered***;~~[and]~~

(3) When age is a factor, it shall mean age at the time of the commission of the offense***;***

(4) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment;

(5) "Limited access highway" has the same meaning as it does in KRS 177.220;

(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapters 186 or 189.

Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) ***After having consumed a quantity of alcohol sufficient to establish an alcohol concentration of 0.10 or more as measured by a test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle***[~~While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005~~];

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) ***After having consumed a quantity of alcohol sufficient to establish an alcohol concentration of 0.02 or more as measured by a test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle,***[~~While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005~~] if the person is under the age of twenty-one (21).

(2) ***If the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under paragraphs (1)(a) and (1)(e) of this section. The results of the test or tests, however, may be admissible in a prosecution under paragraphs (1)(b) and (1)(d).***

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4)[~~(3)~~]The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5)[~~(4)~~]Any person who violates the provisions of paragraphs (a), (b), (c)***,*** or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both.[~~ If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.~~] Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor***

vehicle, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.

(c) ~~[If the alcohol concentration is below 0.18,]~~For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release***~~[If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony]~~.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6)~~[(5)]~~Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(7)~~[(6)]~~If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(8)~~[(7)]~~For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9)~~[(8)]~~When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10)~~[(9)]~~ In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section, provided that the refusal is established by video or audio recording or a written statement signed by the person refusing to submit; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12)~~[(10)]~~ Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection ***(5)***~~[(4)]~~(a) ***or (6)*** of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The treatment or education shall be ***completed within***~~[for]~~ a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. ***The alcohol or substance abuse education program, or combination thereof, shall not exceed nine (9) hours in length and no court or state agency shall have the authority to extend the length of the program by administrative regulation or otherwise.***

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant ***shall***~~[may]~~ be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection ***(5)***~~[(4)]~~(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection ***(5)***~~[(4)]~~(c) or (d) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health Services for services as required under this section.

(6) The Cabinet for Health Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010 shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***~~[($200)]~~, which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The ***revenue collected from the*** service fee ***imposed by this section*** shall be utilized~~[to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.]~~ ***as follows:***

(a) Fifteen percent (15%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b)~~[(4)]~~Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy***;***~~[. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds]~~

(c) One percent (1%) shall be transferred to the Office of the Attorney General for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(e) The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in paragraphs (a), (b), and (c) of subsection (3) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 5. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, ***for a period of not less than thirty (30) days nor more than one hundred twenty (120)***~~[ninety]~~ days;

(b) For the second offense within a five (5) year period, ***for a period of not less than*** twelve (12) months ***nor more than eighteen (18) months***;

(c) For a third offense within a five (5) year period, ***for a period of not less than*** twenty-four (24) months ***nor more than thirty-six (36) months***; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010***(5)***~~[(4)]~~(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040***. However, if the person has enrolled in the program within the time required by law, and the administrator of the program certifies in writing to the Transportation Cabinet that the person will be unable to complete the program within the license suspension period, the cabinet shall restore the person's license or driving privileges at the conclusion of the suspension period for a period of time sufficient for the person to complete the program, not to exceed one hundred twenty (120) days. If, following the restoration period, the person has not yet completed the program, the license or driving privileges shall be revoked until completion of the program***.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 6. KRS 189A.080 is amended to read as follows:

[~~(1)~~]All licenses suspended or revoked pursuant to ***subsection (6) of Section 2 of this Act,*** KRS 189A.060 or 189A.070[~~(1)~~]***, or Sections 10, 11, or 12 of this Act*** shall be surrendered to the court ***and forwarded to the Transportation Cabinet***.[~~ Other revocations pursuant to this chapter shall be administered by the Transportation Cabinet.~~

~~(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to KRS 189A.060 or 189A.070(1) is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the Transportation Cabinet.~~

~~(3) At the end of the period of license suspension or revocation, imposed pursuant to KRS 189A.060 or 189A.070(1), the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the Transportation Cabinet for other reasons, the license shall be returned.~~]

Section 7. KRS 189A.090 is amended to read as follows:

(1) No person shall operate ***or be in physical control of*** a motor vehicle while his license is revoked or suspended ***under Section 5 of this Act, subsection (6) of Section 2 of this Act, or Sections 10, 11, or 12 of this Act***[~~for violation of KRS 189A.010, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010~~].

(2) ***In addition to any other penalty imposed by the court,*** any person who violates subsection (1) of this section shall:

(a) For a first offense ***within a five (5) year period***, be guilty of a Class B misdemeanor ***and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year***;

(b) For a second offense ***within a five (5) year period***, be guilty of a Class A misdemeanor ***and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years***;

(c) For a third or subsequent offense ***within a five (5) year period***, be guilty of a Class D felony ***and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years***.

(3) ***The five (5) year period under this section shall be measured in the same manner as in Section 5 of this Act***[~~In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation~~].

Section 8. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He ***has***[~~is deemed to have~~] given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if ***an officer has reasonable grounds to believe that***[~~arrested for any offense arising out of~~] a violation of KRS 189A.010(1) or 189.520(1) ***has occurred***.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. ***The secretary of the Justice Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.***

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) ***After the person has submitted to all alcohol concentration tests and substance tests requested by the officer*** the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 9. KRS 189A.105 is amended to read as follows:

(1) ***A person's***~~[No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his]~~ refusal to submit to~~[such]~~ tests ***under Section 8 of this Act*** shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the ***fact of this refusal may be used against him in court as evidence of violating Section 2 of this Act and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating subsection (1) of Section 2 of this Act then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license***~~[person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter]~~; and

2. That, if a test is taken***, the results of the test may be used against him in court as evidence of violating subsection (1) of Section 2 of this Act, and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating subsection (1) of Section 2 of this Act, then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18***~~[and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days]~~; and

3. That ***if the person first submits to the requested alcohol and substance tests,*** the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney, and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by Section 10 of this Act shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in Section 8 of this Act within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 10. KRS 189A.107 is amended to read as follows:

(1) ***A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated subsection (1) of Section 2 of this Act or KRS 189.520(1) shall have his***

driver's license suspended by the court during the pendency of the action under Section 11 of this Act[~~Except as provided in KRS 189A.220(2), suspensions for refusal to take an alcohol concentration or substance test shall be as follows:~~

~~(a) For a first refusal in a five (5) year period, six (6) months;~~

~~(b) For a second refusal within a five (5) year period, eighteen (18) months;~~

~~(c) For a third refusal within a five (5) year period, thirty six (36) months; and~~

~~(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months~~].

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) *or KRS 189.520(1)* in a case in which *it is alleged that* he refused to take an alcohol concentration or substance test, *upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by a preponderance of the evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under Sections 11 and 12 of this Act. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time not longer than the period the license would have been suspended upon conviction as set forth in subsection (1) of Section 5 of this Act*[~~the court's final judgment shall impose the penalty required by this section. Except as provided in KRS 189A.220(2), in the event a defendant is convicted of a violation of KRS 189A.010(1), the final judgment shall impose the license revocation penalty required by this section or the license penalty revocation required for the conviction, whichever is longer~~].

Section 11. KRS 189A.200 is amended to read as follows:

(1) [~~In addition to the pretrial suspension of a motor vehicle operator's license authorized by KRS 189A.060,~~]The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1)[~~(a), (b), (c), or (d)~~] who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;[~~ or~~]

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010*(5)*[~~(4)~~](e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest*; or*

(c) Was involved in an accident that resulted in physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court clerk shall *forthwith transmit to the Transportation Cabinet*[~~retain~~] any license surrendered to him pursuant to this section[~~ until:~~

~~(a) The court enters an order directing the return of the license to the defendant;~~

~~(b) In the event of a first offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), ninety (90) days have elapsed since the surrender of the license and the case has not been concluded;~~

~~(c) In the event of a second offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twelve (12) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(d) In the event of a third offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twenty-four (24) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(e) In the event of a fourth or subsequent offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), sixty (60) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(f) In the event of a charge involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), the period specified by KRS 189A.107 has elapsed since the~~

~~surrender of the license and the case has not been concluded;~~

~~(g) A judgment of acquittal is entered in the case unless the applicable suspension period required by KRS 189A.107 has not expired; or~~

~~(h) A judgment of conviction for a violation of KRS 189A.010(1)(a), (b), (c), or (d) is entered in the case, whereupon the clerk shall transmit the license forthwith to the Department of Transportation~~].

(5) ***Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***[~~The clerk shall promptly notify the Department of Transportation of all licenses surrendered pursuant to this section~~].

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed***. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***[~~upon conviction~~].

Section 12. KRS 189A.220 is amended to read as follows:

[~~(1)~~]In any judicial review of a pretrial suspension imposed for refusal to take an alcohol concentration or substance test, if the court determines, by the preponderance of the evidence, that:

(1)[~~(a)~~]The person was charged and arrested by a peace officer with violation of KRS 189A.010(1);

(2)[~~(b)~~]The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010(1);

(3)[~~(c)~~]The person was advised of the implied consent law pursuant to KRS 189A.103;

(4)[~~(d)~~]The peace officer requested the person to take the test or tests pursuant to KRS 189A.103; and then

(5)[~~(e)~~]The person refused to take a test requested by a peace officer pursuant to KRS 189A.103,

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle ***during the pendency of the proceedings***.

[~~(2) If there is a conviction prior to a judicial review of a pretrial suspension for refusal to take an alcohol concentration or substance test, then the period of revocation applicable to the conviction shall apply.~~]

SECTION 13. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

In any judicial review of a pretrial suspension imposed under subsection (1)(c) of Section 11 of this Act, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of Section 2 of this Act;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of Section 2 of this Act;

(3) There is probable cause to believe that the person committed the violation of paragraph (1)(a), (b), (c), or (d) of Section 2 of this Act as charged; or

(4) There is probable cause to believe that the person was involved in an accident that resulted in physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

Section 14. KRS 189A.310 is amended to read as follows:

(1) A court may, upon application of the defendant, ***or attorney for the Commonwealth or upon its own motion***[~~and with notice to the Transportation Cabinet, which shall be a party~~], and if the facts of the case so indicate, order that a prior conviction cannot be used to enhance ***criminal*** penalties ***including***[~~or~~] license suspensions or revocations, or for other purposes for which such a conviction might be used.

(2)[~~Determinations pursuant to this section shall be made in strict conformity to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969), and the requirements of that case shall not be expanded upon unless later applicable case law so dictates.~~

~~(3) The provisions of this section shall not apply to a case in which the prior conviction has not been subject to final judgment, or is under appeal at the time the defendant makes his application pursuant to subsection (1).~~

~~(4)~~] The Transportation Cabinet shall give full faith and credit to any court decision meeting the requirements of this section.

Section 15. KRS 189A.410 is amended to read as follows:

(1) At any time following ***the expiration of the minimum license suspension periods enumerated in subsection (6) of Section 2 of this Act and Sections 5 and 10 of this Act***[~~conviction for a first offense violation of KRS 189A.010~~] the court ***may***[~~shall~~] grant the person hardship driving privileges for the ***balance of the suspension period imposed by the***

court~~[final sixty (60) days of his initial ninety (90) day revocation]~~, upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

Section 16. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For purposes of this section, "alcoholic beverage" means:

(a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(4) For the purposes of this section "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and

(a) Is open or has a broken seal; or

(b) The contents of which are partially removed.

(5) For the purposes of this section "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(6) For the purpose of this section "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(7) No person shall, as a result of a single course of conduct, be charged with or convicted of a violation of this section and a violation of KRS 222.202 or KRS 525.100. The attorney for the Commonwealth shall elect under which statute to proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes.

SECTION 17. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Upon the conviction of a second or subsequent offense of Section 2 of this Act, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of subsection (1)(a), (b), (c), or (d) of Section 2 of this Act, shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) At the final sentencing hearing, and upon application, the court may grant hardship exceptions to family members or

other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to utilize a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be sold to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 18. KRS 186.018 is amended to read as follows:

(1) For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. Except as provided in subsection (2) of this section, the Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.

(2) The Transportation Cabinet shall not release information on the driving history record of a person under the age of twenty-one (21) whose operator license has been suspended pursuant to KRS 189A.010*(6)*~~[(5)]~~. The cabinet shall destroy, and shall not maintain, the record of the suspension of a person's operator's license if the license was suspended pursuant to KRS 189A.010*(6)*~~[(5)]~~, within five (5) working days of the person's operator's license being reinstated.

(3) The cabinet shall charge a fee of three dollars ($3) for any driving history record, ten cents ($0.10) of which shall be deposited in a special account within the road fund to be used exclusively by the Transportation Cabinet for the state driver education program as designated in KRS 186.535.

Section 19. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010*(5)*~~[(4)]~~(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

Section 20. KRS 235.240 is amended to read as follows:

(1) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to *(4)*~~[(3)]~~, except that the penalties for this offense are set forth in KRS 235.990.

Section 21. KRS 281A.2102 is amended to read as follows:

In addition to the penalties established by this chapter for driving a commercial motor vehicle under the influence of alcohol:

(1) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is four hundredths (0.04) to eight hundredths (0.08) shall be fined not less than twenty dollars ($20) and not more than fifty dollars ($50).

(2) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or

breath is greater than eight hundredths (0.08) shall be fined under the provisions of KRS 189A.010***(5)***[~~(4)~~](a) to (d).

Section 22. KRS 189A.100 is amended to read as follows:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means ***the pursuit of a violator or suspected violator, the traffic stop, and*** field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The ***pursuit, traffic stop, and*** testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only***, which shall include:***

1. Viewing in court;

2. Viewing by the prosecution and defense in preparation for a trial; and

3. Viewing for purposes of administrative reviews and official administrative proceedings[~~and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court~~]. Recordings shall otherwise be considered as confidential records; and

(f) ***The videotape or film taken in accordance with this section shall, upon order of the District Court, be destroyed after the later of the following:***

1. Fourteen (14) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, or if the videotape or film does not record the actual happening of an accident involving a motor vehicle;

2. Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation issued as a result of the videotape or film, if the videotape does not record the actual happening of an accident involving a motor vehicle;

3. Twenty-six (26) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, if the videotape or film records the actual happening of an accident involving a motor vehicle;

4. After all appeals have been exhausted arising from any criminal or traffic case filed as a result of the videotape;

5. At the conclusion of any civil case arising from events depicted on the videotape or film; or

6. At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from events depicted on the videotape or film; and[~~After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and~~]

(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) When a peace officer makes a videotape or film recording of any transaction covered by subsection (2) of this section and a citation is issued or an arrest is made the peace officer shall note on the uniform citation that a videotape has been made of the transaction.

Section 23. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed

against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) *(a)* Any person who violates KRS 189.530*(1)* shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates subsection (2) of Section 16 of this Act shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection

(3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 24. The following KRS sections are repealed:

186.642 "Habitual violator" defined.
186.643 Information to be filed by county attorney.
186.644 Hearing.
186.645 Findings of court.
186.646 License not to be issued to habitual violator.
186.647 Restoration of license.
186.648 Appeal.
186.649 Law not to affect existing laws or ordinances of political subdivisions.
186.992 Penalty.

189A.015 Offenses committed prior to July 13, 1984.

189A.060 Pretrial suspension of operator's license.

Section 25. This Act shall become effective October 1, 2000.

Calendar

SB 1, SB 46, SB 53, SB 76, SB 125, SB 143, SB 221, SB 236, SB 240, SB 259, SB 265, SB 287, HB 495, HB 817, HJR 134, HR 151, SB 147, SB 254, SJR 69, HJR 143, SB 21, SJR 68, SB 98, SB 121, SB 294, and **SB 339** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the three day posting requirement be waived on **HR 153** and **SB 275**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Education meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 519, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 519**. Agreed.

Representative Miller moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 519**. Agreed.

Representative Miller moved that **HB 519**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 16, 2000 roll call on **HB 519** - Appendix.)

HB 519, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 519**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 555** be placed back in the Orders of the Day and retain its position.

HB 762, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved the adoption of the Committee Substitute to **HB 762**. Agreed.

Representative Bather moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 762**. Agreed.

Representative Bather moved that **HB 762**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 78, Nays 8**. (See March 16, 2000 roll call on **HB 762** - Appendix.)

HB 762, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bather moved that the vote by which **HB 762**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 796, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the Committee Substitute to **HB 796**. Agreed.

Representative Cave moved that **HB 796**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 16, 2000 roll call on **HB 796** - Appendix.)

HB 796, by way of Committee Substitute, was passed and the title agreed to.

Representative Cave moved that the vote by which **HB 796**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 142 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 142** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 16 , 2000 roll call on **HB 142** - Appendix.)

HB 142 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 142** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 859 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 859** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 16 , 2000 roll call on **HB 859** - Appendix.)

HB 859 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 859** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 991, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of the Committee Substitute to **HB 991**. Agreed.

Representative McKee moved that **HB 991**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 5**. (See March 16, 2000 roll call on **HB 991** - Appendix.)

HB 991, by way of Committee Substitute, was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 991**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 660 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 660** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 16 , 2000 roll call on **HB 660** - Appendix.)

HB 660 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 660** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 897, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 897**. Agreed.

Representative Weaver moved that **HB 897**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 16, 2000 roll call on **HB 897** - Appendix.)

HB 897, by way of Committee Substitute, was passed and the title agreed to.

Representative Cave requested that the Journal note that his abstension on the vote was pursuant to House Rule 57.

Representative Weaver moved that the vote by which **HB 897**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 865 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HB 865** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 16 , 2000 roll call on **HB 865** - Appendix.)

HB 865 was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 865** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 999, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 999**. Agreed.

Representative Thomas moved that **HB 999**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 16, 2000 roll call on **HB 999** - Appendix.)

HB 999, by way of Committee Substitute, was passed.

Representative Thomas moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 999**. Agreed; and the title was agreed to.

Representative Thomas moved that the vote by which **HB 999**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555, with Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 2 to **HB 555**. Agreed.

Representative Burch moved that **HB 555**, as amended, be passed.

Representative Gray moved the adoption of Committee Amendment No. 1 to **HB 555**.

Representative Lindsay inquired if **HB 555** related to more than one subject and thereby violated Section 51 of the Constitution.

The Speaker ruled that the bill in present form is unconstitutional. However, Committee Amendment No. 1 to **HB 555** would strike one entire section of the bill, thereby bring it into compliance with Section 51 of the Kentucky Constitution.

Committee Amendment No. 1 to **HB 555** was adopted by voice vote.

Representative Burch moved that **HB 555**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 16, 2000 roll call on **HB 555** - Appendix.)

HB 555, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 555**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 936, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HB 936**. Agreed.

Representative Stumbo moved that **HB 936**, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 6**. (See March 16, 2000 roll call on **HB 936** - Appendix.)

HB 936, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 936**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 745, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Committee Amendment No. 1 to **HB 745**. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 50, HB 139, HB 158, HB 556, HB 584, HB 604,** and **HB 621** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:50 p.m.)

Senate Message (Continued)

Announcing passage of **SB 165, HB 105, HB 123, HB 237, HB 562, HB 565, HB 610,** and **HCR 6**. (Time: 4:55 p.m.)

Message in regard to **HB 120**: The Senate has passed **HB 120** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 290**: The Senate has passed **HB 290** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

Representative Stumbo moved that **HB 745**, as amended, be passed.

On the roll call the vote was: **Yeas 62, Nays 27**. (See March 16, 2000 roll call on **HB 745** - Appendix.)

HB 745, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 745**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 50, HB 139, HB 158, HB 556, HB 584, HB 604, and **HB 621** delivered to the Senate and signed by the President. Delivered to the Governor on March 16, 2000, at 6:08 p.m.

Orders of the Day (Continued)

HB 750, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

The Speaker Pro Tem assumed the Chair.

The Speaker resumed the Chair.

Representative Barrows moved the adoption of Floor Amendment No. 3 to **HB 750**. Agreed.

Representative Barrows moved that **HB 750**, as amended, be passed.

Representative Upchurch moved the adoption of Floor Amendment No. 4 to **HB 750**.

On the roll call the vote was: **Yeas 28, Nays 59**. (See March 16, 2000 roll call on the adoption of Floor Amendment No. 4 to **HB 750**-Appendix.)

Floor Amendment No. 4 to **HB 750** was defeated.

Representative Barrows moved that **HB 750**, as amended, be passed.

On the roll call the vote was: **Yeas 50, Nays 41**. (See March 16, 2000 roll call on **HB 750** - Appendix.)

HB 750, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 750**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 366, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 366**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 366**. Agreed.

Representative Wilkey moved that **HB 366**, by way of Committee Substitute as amended, be passed.

Representative Hoover moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 366**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 366**. Defeated.

Representative Crall moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 366**.

Representative Treesh moved that Floor Amendment No. 3 to the Committee Substitute to **HB 366** be withdrawn. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 366**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 366**.

On the roll call the vote was: **Yeas 21, Nays 65**. (See March 16, 2000 roll call on the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 366**-Appendix.)

Floor Amendment No. 5 to the Committee Substitute to **HB 366** was defeated.

Representative Wilkey moved that **HB 366**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 5**. (See March 16, 2000 roll call on **HB 366** - Appendix.)

HB 366, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 366**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 3, SB 36, SB 65, SB 107, SB 113, SB 149, SB 169, SB 170, SB 194, SB 232, SB 51, SB 100, SB 111, SB 174, SB 186, SB 212, SB 247, SB 57, SB 128, SB 172, SB 207, SB 272, SCR 61, SB 21, SB 46, SB**

53, SB 76, SB 125, SB 143, SB 147, SB 236, SB 240, SB 254, SB 265, SB 287, and **SJR 69** have been posted for passage in the Orders of the Day for March 17, 2000.

The Committee on Rules reported that the following Bills and Resolutions have been recommitted:

Appropriations and Revenue: **HB 155, HB 201, HB 378, HB 524, HB 790, HB 873, HB 889, HB 909, HB 916, HB 925, HB 931, HB 956, HB 995, HCR 127, HB 297, HB 528, HB 1012, HB 1014, HB 891, HB 920, HB 940, HB 941, HB 1032, HJR 132, HJR 138, HB 680, HB 810, HB 821, HB 878, HB 893, HB 962, HB 1020, HB 1024, HR 140, HB 495, HB 817, HJR 134, HJR 143, HR 151, SB 1**

Judiciary: **HB 102, HB 271, HB 612, HB 704, HB 807**

Education: **HJR 129**

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 807** be placed in the Orders of the Day for March 17, 2000. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 17, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 162, by Representative D. Butler: A RESOLUTION requesting a comprehensive study of the alcoholic beverage control laws.

Report of Committees (Continued)

The Committee on Education reported **HR 153** and **SB 275** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 153, A RESOLUTION encouraging the Kentucky Department of Education, other state agencies of the Commonwealth of Kentucky, and school districts to work together to promote the inclusion of students and teachers in community-based learning initiatives.

WHEREAS, the Commonwealth of Kentucky is firmly committed to effective community-based and student-centered learning; and

WHEREAS, this commitment is reflected in the school consolidated planning process; and

WHEREAS, the school consolidated planning process encourages a comprehensive range of school and community activities; and

WHEREAS, there are many community-based initiatives that could involve students and teachers in ways that benefit communities and simultaneously provide effective learning experiences for students; and

WHEREAS, various state agencies are presently providing support and encouragement to community-based initiatives that could enhance the school consolidated planning process;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body encourages the Kentucky Department of Education, other state agencies of the Commonwealth of Kentucky, and school districts to work together to promote the inclusion of students and teachers in community-based learning initiatives.

Section 2. The Department of Education is urged to review its policies and procedures, including assessment procedures, with the objective of proposing methods for linking schools and students to the real life of their communities, and to report the results of the review to the Interim Joint Committee on Education by September 1, 2001.

Section 3. The Clerk of the Senate is directed to transmit a copy of this Resolution to the Commissioner of Education, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

SB 275, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i)[~~The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;~~

~~(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;~~

~~(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;~~

~~(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;~~

~~(m)~~] The Department of Vocational Rehabilitation;

(j)[~~(n)~~] The Kentucky Educational Collaborative for State Agency Children;

(k)[~~(o)~~]The Governor's Scholars Program;

(l)[~~(p)~~] Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m)[~~(q)~~] Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;[~~ and~~]

(n)[~~(r)~~]Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky

Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620***; and***

(o) Employees of the Cabinet for Workforce Development, the Department for Adult Education and Literacy, and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000. "Member" shall not include the commissioners of the Department of Adult Education and Literacy and the Department for Technical Education;[~~.~~]

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;~~[and]~~

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis***; and***

(22) "Full actuarial cost" when used to determine the payment that a member must pay for service credit obtained under the provisions of KRS 161.220 to 161.990, means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **SB 317, SB 42, SCR 88**

Natural Resources and Environment: **SB 409**

State Government: **SB 175**

Health and Welfare: **HB 907**

Transportation: **SB 78, SB 398, SJR 73, SJR 104, SJR 110**

Tourism, Development, and Energy: **SJR 107**

Motions, Petitions, and Communications (Continued)

Representative Siler moved the adoption of the following **Legislative Citation No. 120**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Dianne Stanfill upon being named the well-deserving recipient of the Arc of Kentucky Professional Service Award in recognition of the many and generous contributions she has made as the SCL/MR Program Director for the Cumberland River Regional MH/MR Board, Inc. A consummate professional and dedicated family woman who holds an undergraduate degree in Elementary Education, a Master's in Special Education and her Rank I certification in Education, this esteemed honoree brings to her post the wealth of knowledge and experience she has accrued throughout her phenomenal thirty-year career, in which she has progressed from a program aide, instructor and AIS/MIR Program Director to the position she currently holds. Highly regarded for her superior organizational skills, unquestionable competency, tireless enthusiasm and her genuine concern for the well-being of both patients and staff, she has achieved an extraordinary level of success in her profession and, as a result of her efforts, has both earned the highest regards of her peers and contributed greatly to a standard of quality and excellence in the managed care field. The entire membership is indeed honored to join Representative Charles L. Siler in commending Dianne Stanfill for this outstanding accomplishment and in extending to her best wishes for continued success and good fortune. Done in Frankfort, this sixteenth day of March, in the year two thousand.

Legislative Citation No. 120 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 118**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Need Potter, Sr. and expresses deepest sympathy to his loving wife of over fifty-nine years, Ellen Smith Potter; his beloved children, Norma Sue, Janice Lynn, Barbara Jean, Lenvil, Leon, Need, Jr., and the late Vernon Combs; his eighteen adoring grandchildren and twenty-seven cherished great-grandchildren. A native of Swan Pond, Kentucky, Mr. Potter was a respected bus driver for the Barbourville Independent School System for twenty-one dedicated years before his retirement and was a faithful member of the First Baptist Church at Artemis. Inasmuch as Need Potter, Sr., is remembered this day as a distinguished gentleman who will long be cherished and sorely missed by those whose lives were touched by his remarkable presence, the members of this august body do solemnly join with Representative Jim Stewart in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this sixteenth day of March, in the year two thousand.

Legislative Citation No. 118 was adopted without objection.

Representative Gooch moved that **HB 972** be withdrawn. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lee moved that he be recorded as voting "yea" on Floor Amendment No. 4 to **HB 437**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 538** and **HB 923**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 555**. Agreed.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Allen moved that he be recorded as voting "yea" on **HB 855**. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that his vote be changed from "nay" to "yea" on **HB 762**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 789** and **HB 895**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 865**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the House Committee Substitute to **SB 121**, by Representative Burch:

On page 9, line 22, by removing the "*:*".

Floor Amendment No. 1 to **SB 341**, by Representative Crall:

On page 1, line 24, by deleting "***may***" and inserting "***shall***"; and

On page 1, line 25, after "***format***" by adding "***if the insurer has an established website on the internet***".

Floor Amendment No. 2 to the House Committee Substitute to **SB 121**, by Representative J. Turner:

On page 8, line 20, and continuing through page 19, line 1, by deleting Sections 10 through 23 in their entirety.

Floor Amendment No. 1 to the House Committee Substitute to **SB 98**, by Representative Treesh:

On page 9, after line 10, by inserting the following:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) No pharmacist, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices that may terminate a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.

(2) It shall be an unlawful discriminatory practice for:

(a) Any person to impose penalties, take disciplinary action against, or deny or limit public funds, licenses and certification degrees, or other approvals or documents of qualification to any pharmacist for his or her refusal, based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medical, nursing, or other school, or hospital to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any pharmacist on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds."

Floor Amendment No. 2 Title to **SB 98**, by Representative Treesh:

By amending the title to read as follows: "AN ACT relating to health care."

Floor Amendment No. 1 to the House Committee Substitute to **SB 170**, by Representative Damron:

On page 5, after line 2 by inserting the following:

"*(5) Any person listed in subsection (1) (a) of this section that has a charter, license, or certificate issued by the department shall not be required to file with the commissioner a claim of exemption. Any person listed in subsection (1)(b), (c),(d), or (e) of this section shall not be required to file with the commissioner a claim of exemption.*"; and

On page 6, after line 14 by adding:

"*(4) Any person who engages in the business regulated by this chapter without first securing a license shall have no right to collect any principal, charges, or recompense whatsoever.*".

Floor Amendment No. 1 to **SB 198**, by Representative Kerr:

On page 1, line 9, by bracketing and striking through, "licensed", and

On page 1, lines 11 and 12, by deleting, "*Social Security number,*", and

On page 1, line 14, before the semicolon, by inserting, "*, and the Social Security number of each party if that party has a Social Security number*" and

On page 2, line 26, by deleting the line in its entirety and by inserting in lieu thereof, "*Any Social Security number recorded on the marriage license shall be stored by the*".

Floor Amendment No. 1 to **SB 4**, by Representative Napier:

On Page 1, after line 14, by inserting,

"Section 2. KRS 95.017 is amended to read as follows:

(1) Uniformed employees of any city or county police or fire department, while off duty and out of uniform, shall be entitled to:

(a) Place political bumper stickers on their privately-owned vehicles;

(b) Wear political buttons;

(c) Contribute money to political parties, political candidates and political groups of their choice;

(d) Work at the polls on election days;

(e) Aid in registration or purgation of voters;

(f) Become members of political groups; and

(g) Hold office in political groups and carry out the mandates of that group.

(2) Salaried fire chiefs of any city shall be prohibited from participating in any electoral campaign involving the election of city officials.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 128**, by Representative Marzian:

On page 1, line 16, by deleting "*physician*" and inserting "*physical*" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 446: Representative Reinhardt

HB 913: Representative Anderson

The following members filed requests to have their names withdrawn as co-sponsors of a Bill under rules previously suspended:

HB 331: Representatives Burch, L. Clark, Jenkins, Jordan, Marzian, Stein, Wayne

Announcements

The following meeting was announced:

Women's Caucus, March 17, 2000, upon adjournment

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 17, 2000.

The motion that the House adjourn until 10:00 a.m., March 17, 2000, was adopted by voice vote.

MARCH 17, 2000

FIFTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend James Butler, Hillview Cumberland Presbyterian Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Kerr.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 16, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 165, SB 305**

Economic Development: **SB 115**

Health and Welfare: **SB 400**

Judiciary: **HR 161, SB 239**

Licensing and Occupations: **HR 162**

State Government: **SB 396**

Report of Committees

The Committee on Rules reported that **HB 726** has been posted for passage in the Orders of the Day for March 20, 2000.

Calendar

SB 72, SB 73, SB 74, SB 101, SB 102, SB 130, SB 159, SB 160, SB 163, SB 171, SB 217, SB 326, SB 195, SB 245, SB 279, SB 289, SB 331, SB 341, SB 267, SB 324, SB 330, SB 351, SB 11, SB 52, SB 116, SB 137, SB 167, SB 189, SB 198, SB 223, SB 257, SB 298, HR 153, and **SB 275** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 323, SB 349,** and **SB 394**. (Time: 10:15 a.m.)

Message in regard to **HB 517**: The Senate has passed **HB 517** with Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 105, HB 123, HB 237, HB 562, HB 565, HB 610,** and **HCR 6** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:20 a.m.)

Representative Heleringer confirmed his absence on March 16, 2000.

Orders of the Day

HB 202, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 202**. Agreed.

Representative Westrom moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 202**. Agreed.

Representative Westrom moved that **HB 202**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 17, 2000 roll call on **HB 202** - Appendix.)

HB 202, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 202**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 792, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 792**. Agreed.

Representative Gooch moved that **HB 792**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 17, 2000 roll call on **HB 792** - Appendix.)

HB 792, by way of Committee Substitute, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 792**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 563, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scott moved the adoption of the Committee Substitute to **HB 563**. Agreed.

Representative Scott moved that **HB 563**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 17, 2000 roll call on **HB 563** - Appendix.)

HB 563, by way of Committee Substitute, was passed and the title agreed to.

Representative Scott moved that the vote by which **HB 563**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 807 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 807** be passed.

On the roll call the vote was: **Yeas 86, Nays 1**. (See March 17 , 2000 roll call on **HB 807** - Appendix.)

HB 807 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 807** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 57, with House Committee Substitute, House Committee Amendment, and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of House Floor Amendment No. 22 to **SJR 57**.

Representative Wayne moved the that **SJR 57** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 25, Nays 64**. (See March 17, 2000 roll call on the motion that **SJR 57** be laid on the Clerk's Desk-Appendix.)

The motion that **SJR 57** be laid on the Clerk's Desk was defeated.

Representative Jenkins inquired if House Floor Amendment No. 22 to **SJR 57** was a piggyback.

The Speaker ruled that House Floor Amendment No. 22 to **SJR 57** was a piggyback.

Representative Riner moved that the rules be suspended to act upon House Floor Amendment No. 22 to **SJR 57**.

On the roll call the vote was: **Yeas 76, Nays 13**. (See March 17, 2000 roll call that the rules be suspended to act upon House Floor Amendment No. 22 to **SJR 57**-Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 22 to **SJR 57** was adopted.

Representative Riner moved the adoption of House Floor Amendment No. 22 to **SJR 57**.

On the roll call the vote was: **Yeas 70, Nays 22**. (See March 17, 2000 roll call on the adoption of House Floor Amendment No. 22 to **SJR 57**-Appendix.)

House Floor Amendment No. 22 to **SJR 57** was adopted.

Representative Riner moved that **SJR 57**, as amended, be adopted.

Representative Cox moved the adoption of House Floor Amendment No. 1 to **SJR 57**.

The Speaker ruled that House Floor Amendment No. 1 to **SJR 57** was drawn to the House Committee Substitute and, therefore, was out of order.

Representative Riner moved that **SJR 57**, as amended, be adopted.

On the roll call the vote was: **Yeas 77, Nays 17**. (See March 17, 2000 roll call on **SJR 57** - Appendix.)

SJR 57, as amended, was adopted.

Representative Riner moved the adoption of House Floor Amendment No. 23 Title to **SJR 57**. Agreed; and the title was agreed to.

Representative Riner moved that the vote by which **SJR 57**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 533, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 533**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 533**. Agreed.

Representative Wilkey moved that **HB 533**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 17, 2000 roll call on **HB 533** - Appendix.)

HB 533, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 533**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 105, HB 123, HB 237, HB 562, HB 565, HB 610, and **HCR 6** delivered to the Senate and signed by the President. Delivered to the Governor on March 17, 2000, at 11:14 a.m.

Senate Message (Continued)

Announcing passage of **SB 179, SB 408, HB 157, HB 308, HB 503, HB 536,** and **HJR 100**. (Time: 1:00 p.m.)

Message in regard to **HB 595**: The Senate has passed **HB 595** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 665**: The Senate has passed **HB 665** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HJR 61**: The Senate has passed **HJR 61** with Senate Committee Amendments and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

HB 919, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 919**. Agreed.

Representative Wilkey moved that **HB 919**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 17, 2000 roll call on **HB 919** - Appendix.)

HB 919, by way of Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 919**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 537, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 537**. Agreed.

The Speaker Pro Tem assumed the Chair.

Representative Geveden moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 537**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 537**. Agreed.

Representative Geveden moved that **HB 537**, by way of Committee Substitute as amended, be passed.

The Speaker resumed the Chair.

Representative Jenkins moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 537**. Agreed.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 537**. Defeated.

Representative Geveden moved that **HB 537**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 84, Nays 6**. (See March 17, 2000 roll call on **HB 537** - Appendix.)

HB 537, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 537**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **SB 77** be taken from the Orders of the Day and recommitted to the Committee on Appropriations and Revenue: Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 309**. Agreed.

Representative Stumbo moved that **HR 140** be placed in the Orders of the Day. Agreed.

Representative Stumbo moved that the following House Bills and House Resolutions remaining in the Orders of the Day be recommitted to Appropriations and Revenue: **HB 341, HB 325, HB 238, HB 363, HB 59, HB 396, HB 481, HB 625, HB 414, HB 551, HB 567, HB 751, HB 724, HB 984, HB 554, HB 980, HB 1010, HCR 116, HB 305,** and **HB 617**. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 4:00 p.m., March 20, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 163, by Representative Nunn: A RESOLUTION in support of Huntington's Disease awareness.

HCR 164, by Representatives Bather, Bruce, and Crenshaw: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Local Government to study the issue of gun-related urban crime and violence.

HR 165, by Representative Bratcher: A RESOLUTION in support of the Louisville-Fraternal Order of Police.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Seniors, Military Affairs, and Public Safety: **SB 108**

Health and Welfare: **HR 158, SB 335, SB 343**

Appropriations and Revenue: **SB 1, SB 33, SB 49, SB 63, SB 80, SB 81, SB 86, SB 94, SB 288, SB 293, SB 336, SJR 114**

Local Government: **SB 220**

Elections, Constitutional Amendment, and Intergovernmental Affairs: **SB 4**

Motions, Petitions, and Communications (Continued)

Representative L. Belcher moved the adoption of the following **Legislative Citation No. 119**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Charlie Walton for his generous contributions to the joint effort to feed the teeming mass of colleagues laboring earnestly into the night and for his judicious use of time in announcing his part and pride in that most thoughtful and generous gesture. The members of this august body are delighted to join Representatives Larry L. Belcher, Jim Thompson, Dwight Butler, Charles Siler, Jim Wayne, Charles Miller and Jeff Hoover in applauding Representative Charlie Chicken-Man Walton, as well as the other contributors, who, we note, remained unnamed, and who practiced the fine art referred to in the little known proverb, "...those whom I feed, surely will not eat me alive." Done in Frankfort, this sixteenth day of March, in the year two thousand.

Legislative Citation No. 119 was adopted without objection.

Representative Graham moved the adoption of the following **HR 157**:

HR 157, A RESOLUTION adjourning the House of Representatives in honor of Mrs. Carolyn Crittenden.

WHEREAS, Mrs. Carolyn Crittenden has dedicated the last twenty years of her career to the Municipal Electric Power Association of Kentucky; and

WHEREAS, it is widely believed that Mrs. Carolyn Crittenden holds the world record for saying the word "municipal," having uttered that word an estimated 30,225 times over the years; and

WHEREAS, Mrs. Carolyn Crittenden, known to most as "Sissy," has been a dedicated, talented, and productive advocate of public power in Kentucky; and

WHEREAS, Mrs. Carolyn Crittenden and her husband, Virgil, and their best friend, Cosmo, their dog, will now be free to spend many leisurely hours adrift on the waters of the Kentucky River;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby recognize the contributions to both family and occupation made by Mrs. Carolyn Crittenden during her long and prosperous career.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Mrs. Carolyn Crittenden.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Gippy Graham for presentation to Mrs. Carolyn Crittenden.

There being no objection **HR 157** was adopted.

Representative Stewart moved the adoption of the following **Legislative Citation No. 121**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Gary Lynn Blanton the loving father of Matthew Ryan Blanton; cherished son of Betty Hensley Blanton; and adored brother of Carla Denise Jones and Mark Scott Blanton. A citizen of Manchester, Kentucky, Mr. Blanton was an honorable member of the Barbourville National Guard and was a respected Federal Prison Correction Officer at the Manchester Correctional Institute. Inasmuch as this esteemed gentleman will forever be remembered as a faithful friend and dedicated public servant, the members of this august body solemnly join with Representative Jim Stewart in paying tribute to the memory of Gary Lynn Blanton and in extending sincere condolences to all those who share in the loss of this most highly-regarded citizen. Done in Frankfort, this seventeenth day of March, in the year two thousand.

Legislative Citation No. 121 was adopted without objection.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 533**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 390**. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palmer moved that he be recorded as voting "yea" on **HB 807**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **HB 807, HB 563,** and **HB 202**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 3**, by Representative Heleringer:

On page 1 after line 16 by adding the following

"SECTION 2. A NEW SECTION OF SUBTITLE 20 OF 304 KRS CHAPTER IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 15, 2001, no insurer shall write, sell, or offer policies of liability motor vehicle coverage in this state if the premiums for the coverage are based on the age, race, gender, location of residence, or marital status of the insured. Premiums for liability motor vehicle coverage shall be based solely on the driving record of the insured, except as established in subsection (2) of this section.

(2) Insurers may establish a two (2) year premium for a new driver without an established driving record.

(3) This section shall not affect any discount established in this chapter.

Floor Amendment No. 1 to the House Committee Substitute **SB 11**, by Representative Cave:

On page 205, line 22, by deleting, "*12.00*" and inserting in lieu thereof, "*7.50*".

Floor Amendment No. 1 to **SB 74**, by Representative J. Arnold:

On page 3, after line 26 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Employ" means to hire, retain, or otherwise contract with a person for goods or services;

(b) "Person" has the same definition as in KRS 446.010. In the case of a business entity, "person" includes an individual who owns more than five percent (5%) of the business entity's total value and who is:

1. An officer, employee, or agent of the entity; or

2. A member of the immediate family of an officer, employee, or agent of the business entity;

(c) "Local government" means a city, county, charter county, urban-county government, or a special district; and

(d) "Member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

(2) A local government shall not employ, directly or indirectly, any person employed by the local government to serve as a construction manager, grant administrator, or to perform a similar function on a capital construction project in any other capacity with respect to that project.

(3) Any violation of subsection (2) of this section shall disqualify the local government from receiving any financial assistance from the state or any state agency with respect to the project for which the person was employed.

(4) Any person employed by a local government as a construction manager, grant administrator, or to perform a similar function on a capital construction project in any other capacity that knowingly accepts any employment with respect to that project prohibited by subsection (2) of this section shall be guilty of a Class A misdemeanor.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 298**, by Representative Vincent:

On page 2, line 11, by deleting, "***0.10***" and inserting in lieu thereof, "***0.08***", and

On page 3, line 15, by inserting, "***0.08***" after, "but less than" and by bracketing and striking through, "0.10", and

On page 6, line 8, by inserting, "***0.08***" after, "concentration of" and by bracketing and striking through, "0.10", and

On page 13, line 21, by deleting "***11, or 12***" and inserting "***13, or 14***" in lieu thereof, and

On page 14, line 10, by deleting "***11, or 12***" and inserting "***13, or 14***" in lieu thereof, and

On page 19, line 8, by deleting "***11***" and inserting "***13***" in lieu thereof, and

On page 19, line 21, by deleting "***11 and 12***" and inserting "***13 and 14***" in lieu thereof, and

On page 20, between lines 2 and 3, by inserting the following:

"Section 11. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***[~~0.10~~] or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 12. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~], such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08***[~~0.10~~] or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages." and by renumbering subsequent sections accordingly, and

On page 23, line 12, by deleting "*11*" and inserting "*13*" in lieu thereof, and

On page 35, line 2, by deleting "*16*" and inserting "*18*" in lieu thereof.

Floor Amendment No. 3 to the House Committee Substitute to **SB 98**, by Representative Treesh:

On page 5, by inserting the following between lines 14 and 15:

"*(15)* ***"Dispense" means to receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patients or any other party.***".

Floor Amendment No. 2 to **SB 74**, by Representative Upchurch:

On page 3, after line 26 by adding the following:

"Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;~~[and]~~

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***;***

(25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;

(26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. A qualified manufactured home:

- ***(a) Is manufactured after January 1, 2000, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code;***
- ***(b) Is affixed to a permanent foundation, is connected to the appropriate facilities, and is installed in compliance with KRS 227.570;***
- ***(c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;***
- ***(d) Has a minimum total living area of nine hundred (900) square feet;***
- ***(e) Has a minimum roof pitch of a four (4) foot rise to a twelve (12) foot run;***
- ***(f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and***
- ***(g) Is not located in a manufactured home park; and***

(27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding temporary blocks, to which a manufactured home may be affixed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Whereas the General Assembly recognizes the need for affordable, diverse forms of quality housing to serve as a base for a community's economic vitality, Sections 2 to 5 of this Act are enacted.

(1) The provisions of this section and Section 4 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.

(2) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that differentiate qualified manufactured homes within

those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 2 of this Act, from other residential housing solely because the qualified manufactured homes are either built in a factory or are not built on-site.

(3) ***Cities, counties, urban-county governments, and charter county governments may adopt regulations concerning the size, aesthetics, and architectural design of a qualified manufactured home so that the special character of neighborhoods, including historic preservation districts, may be maintained. Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (2) of this section or to require a final inspection of any manufactured home for the purpose of ensuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity.***

Section 4. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

  (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

  (b) The size, width, height, bulk, location of structures, buildings and signs;

  (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

  (d) Intensity of use and density of population floor area to ground area ratios, or other means;

  (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

  (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

  (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

  (a) Setback lines may be required for the protection of existing and proposed streets and highways;

  (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

  (c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

  (a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

  (b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced***; and***

(9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that differentiates qualified manufactured housing from other single-family residential dwellings contrary to the provisions contained in Sections 2 to 4 of this Act.".

Floor Amendment No. 3 to **SB 247**, by Representative L. Clark:

On page 21, after line 7, by adding the following:

"Section 17. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first ***,***~~[or]~~ second***, or third*** class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 128**, by Representative Marzian:

On page 1, line 12, by deleting "*licensed*" and inserting "*credentialed*" in lieu thereof; and

On page 1, line 16, by deleting "*physician*" and inserting "*physical*" in lieu thereof; and

On page 1, lines 18 and 19, by deleting "*an independent*" and inserting "*a health care*" in lieu thereof.

Floor Amendment No. 1 to **SB 287**, by Representative Stacy:

On page 3, line 23 after "containing" by inserting "*elementary schools and only*";

On page 3, line 23 by placing an opening bracket in front of "no" and on line 24 by placing a closing bracket after the first comma and striking through all language in between; and

On page 3, line 24 by placing brackets around and striking through the second comma.

Floor Amendment No. 1 to **SB 232**, by Representative Marzian:

On page 1, by inserting after line 23:

"SECTION 3. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) To provide for health care services to low-income families, the Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to apply less restrictive income and resource methodologies for the purpose of determining family eligibility for Medicaid.

(2) To determine Medicaid eligibility for families with children for purposes of this section, and as provided under 42 U.S.C. sec. 1396u-1, the Cabinet for Health Services shall:

(a) Apply a resource limit of no less than four thousand dollars ($4,000) per household;

(b) Exempt two (2) cars from the resource limit for families with two (2) parents and one (1) car for families with one (1) parent; and

(c) Disregard household income to the extent that families with income up to one hundred percent (100%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, and who otherwise qualify, shall be eligible for Medicaid coverage.

(3) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

(4) To implement the provisions of this section, the Department for Medicaid Services shall apply, no later than September 1, 2000, for any federal waiver that might be necessary to:

(a) Exclude from coverage under this section adults who are enrolled in employer-offered health benefit plans, as defined in KRS 304.17A-005, in which the total amount of employer-required premium shares is less than ten percent (10%) of gross household income; and

(b) Provide for a copayment of three dollars ($3) for each adult enrolled under this section to be applied to physician office visits, laboratory services, radiology services, prescription drugs, hospital admissions, outpatient surgery, and nonemergency use of the emergency room.

(5) The cabinet shall permit families to apply for coverage under this section using the same application form used by the cabinet for purposes of determining children's eligibility for the Kentucky Children's Health Insurance Program established by KRS 205.6481 to 205.6495.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 7 of this Act:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Eligible consumer" means any full-time resident of Kentucky who:

(a) Is age sixty-five (65) or older;

(b) Is not enrolled for prescription drug coverage under any other health benefit plan as defined in KRS 304.17A-005; and

(c) Is enrolled in the Qualified Medicare Beneficiary Program;

(3) "Eligible drug" means any prescription drug approved for the Medicaid drug formulary. The term does not include a prescription drug that is manufactured by a company that does not provide a rebate for the program under Section 7 of

this Act; and

(4) "Program" means the Kentucky Prescription Drug Assistance Program established under Section 5 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Prescription Drug Assistance Program is created for low-income, elderly Kentuckians and shall be implemented no later than January 1, 2001, by the secretary of the Cabinet for Health Services. The program shall expire on December 31, 2003, unless extended by the General Assembly or superseded by Act of Congress.

(2) The cabinet shall provide, to each eligible consumer, pharmacy assistance through direct payment for the eligible drug to the dispensing pharmacy or health care provider that filled the prescription for the eligible drug, or to the consumer upon presentation of a verifiable receipt. The maximum annual cap under this program for each eligible consumer shall be five hundred dollars ($500).

(3) A copayment of five dollars ($5) per prescription shall be collected by the dispensing pharmacist prior to the dispensing of an eligible drug. The pharmacist shall retain the copayment, which shall constitute the dispensing fee.

(4) The cabinet shall market the program to inform potential eligible consumers about the program's existence, about the drugs covered as eligible drugs, about the copayment, and about any limitations on access to eligible drugs.

(5) Enrollment in the program shall be established during a sixty (60) day period of open enrollment, during which applications shall be accepted and eligibility shall be determined. The cabinet shall close the open enrollment period if it determines that benefit payments under the program are projected to exceed the amounts appropriated for the program. There shall be no enrollment fee.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

- *(a) Develop an application and process to determine whether a person is an eligible consumer;*
- *(b) Establish a process through which an eligible consumer may appeal a decision that denies reimbursement for an eligible drug; and*
- *(c) Implement all other provisions of Sections 4 to 7 of this Act.*

(7) Prior to September 1, 2001, the cabinet shall, for fiscal years 2002-2004:

- *(a) Project the expenditures of the program based upon eligibility criteria and covered benefits; and*
- *(b) Submit a report to the Legislative Research Commission that summarizes consumer demographics, utilization, provider dispensing experience, utilization review results, and other information as deemed necessary by the cabinet or as requested by the Legislative Research Commission.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The dispensing pharmacist shall be reimbursed for the products dispensed under the program at the average wholesale price of the eligible drug, less ten percent (10%).

(2) No pharmacist or pharmaceutical company shall be compelled to participate in the program. Program participation shall not be implied or compelled by virtue of a pharmacist's or pharmaceutical company's participation in Medicaid.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide an eligible drug to an eligible consumer through a manufacturer rebate arrangement with a pharmaceutical company in an amount consistent with the Medicaid rebate of fifteen and one-tenth percent (15.1%) of the Average Manufacturer Price (AMP) for innovator or brand name products and eleven percent (11%) of AMP for noninnovator or generic products.

(2) The cabinet shall maintain and collect data to evaluate the success of the program at providing eligible drugs to eligible consumers, the effect of the program on the health of older Kentuckians, and the cost-effectiveness of the program.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of thirteen (13) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with Section 3 and Sections 4 to 7 of this Act and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

- *(a) The commissioner of the Department for Medicaid Services, who shall serve as chair;*
- *(b) The secretary of the Cabinet for Health Services, who shall serve as vice chair;*
- *(c) One (1) nonvoting member serving ex officio from the House of Representatives, who shall be appointed by and serve at the pleasure of the Speaker of the House;*

(d) One (1) nonvoting member serving ex officio from the Senate, who shall be appointed by and serve at the pleasure of the President of the Senate;

(e) The deans of the University of Louisville Medical School and the University of Kentucky College of Medicine;

(f) The commissioner of the Department for Public Health;

(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

(h) Four (4) citizens of the Commonwealth at large, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of which shall be male and at least one (1) of which shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care businesses. Private sector and citizen at-large members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Cabinet for Health Services for administrative purposes and shall establish advisory boards it deems appropriate which shall consist of consumers and health care providers to assist with oversight of fund expenditures.

(5) Grants and funds obtained under this chapter shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be used to fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly created in Sections 4 to 7 of this Act;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to fund Medicaid coverage for low-income families and the Kentucky Prescription Drug Assistance Program for the elderly. Advertisement of the public hearing shall be published at least once, but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under Section 3 and Sections 4 to 7 of this Act. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against him or her, for any act or omission related to the performance of his or her powers and duties under Section 3 and Sections 4 to 7 of this Act, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Section 3 and Sections 4 to 7 of this Act, including but not limited to retaining the staff it deems necessary for the proper performance of its duties.

(9) The board shall meet at least quarterly and at other times upon call of the chair or a majority of the board.

Section 9. (1) There is appropriated $7,000,000 for fiscal year 2000-2001 and $7,000,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which shall be used to fund the Kentucky Prescription Drug Assistance Program created in Sections 4 to 7 of this Act.

(2) There is appropriated $10,700,000 for fiscal year 2000-2001 and $14,300,000 for fiscal year 2001-2002 from the Kentucky health care improvement fund created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session, which together with corresponding federal matching funds shall be used to expand Medicaid coverage to low-income families up to 100% of the federal poverty level. The Cabinet for Health Services shall set the income disregards at levels designed to expend all the funds appropriated for this program, but ensure that the allocations are not exceeded. Every six months after the effective date of this Act, the cabinet shall report to the Interim Joint Committee on Health and Welfare the number of individuals enrolled

in Medicaid under Section 3 of this Act, the amount of income disregarded in determining eligibility, the amount of funds that have been expended under Section 3 of this Act, and the number of copayments charged in each category of service.

(3) Any unexpended funds appropriated for the Kentucky Prescription Drug Assistance Program created in Sections 4 to 7 of this Act shall be reallocated for the expansion of Medicaid to low-income families according to Section 3 of this Act.

Section 10. Whereas the health of older Kentuckians is suffering because of the lack of health insurance coverage for pharmaceuticals; and whereas there is a fundamental need to care for our older Kentuckians because they have toiled to make this great Commonwealth a better place for us to live; and whereas approximately 20 other states currently are providing pharmaceutical assistance to their elderly; and whereas the need is increasing for a program to provide assistance for drugs for the elderly; and whereas moneys received in the tobacco settlement agreement fund should be disbursed to begin funding important and worthy programs as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 2 Title to **SB 232**, by Representative Marzian:

By amending the title to read as follows: "AN ACT relating to health care, making an appropriation therefor, and declaring an emergency.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 279**, by Representative Damron:

On page 2, line 11 after "***304.17A-005***" and before the semicolon by inserting "***and, for the purposes of Sections 1 to 17, 18 and 19 of this Act only, shall include physical therapist licensed under KRS Chapter 327. Nothing contained in Sections 1 to 17, 18 and 19 of this Act shall be construed to include physical therapists as a health care provider or provider under KRS 304.17A-005***".

Floor Amendment No. 3 to **SB 74**, by Representative Nesler:

On Page 3, after Line 26 by inserting the following:

"Section 2. KRS 91A.400 is amended to read as follows:

In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, the city legislative body in cities of the ***third,*** fourth, and fifth classes may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city. All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.".

Floor Amendment No. 1 to **SB 225**, by Representative J. Turner:

On page 5, line 17, by inserting "***or county***" after "***tract***";

On page 5, line 18, by inserting "***or county***" after "***tract***";

On page 5, line 21, by inserting "***or county***" after "***tract***";

On page 7, line 7, by inserting "***or a county certified by the authority in accordance with KRS 154.22-040***" after "***tracts***";

On page 7, line 8, by deleting line 8 in its entirety, and inserting in lieu thereof: "***a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the***";

On page 7, line 24, before the "." by inserting "***, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone***".

Floor Amendment No. 1 to **SB 172**, by Representative Haydon:

On page 3, lines 11 through 14, delete lines 11 through 14 in their entirety and insert the following:

"***(11) "Advertising device viewing zone" means:***

(a) An area seven hundred fifty (750) feet in the direction the advertising device is facing if the advertising device is perpendicular to the highway measured on the centerline of the travel lane having as one (1) terminus the point of the centerline immediately opposite the advertising device; or

(b) An area seven hundred fifty (750) feet in the direction the advertising device is facing and two hundred fifty (250) feet past the advertising device if the advertising device is "V" shaped or is parallel to the highway measured on the centerline of the travel lane having as one (1) terminus the point of the centerline immediately opposite the advertising device;"; and

On page 3, line 24, after the word "***facings***" and before the period "***.***" insert the following:

"***, provided that the addition of new supports or poles by splicing or attaching to existing supports is not necessary***"; and

On page 10, line 5, after the number "***5.***" insert the following: "***A verification form to be completed by a certified arborist that the requested vegetation control shall be in accordance with accepted horticulture practices and that***" and by changing the capital word "***The***" to a lowercase word "***the***".

Floor Amendment No. 3 to **SB 298**, by Representative Wilkey:

By deleting everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused ***if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered***;~~[and]~~

(3) When age is a factor, it shall mean age at the time of the commission of the offense***;***

(4) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment;

(5) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapters 186 or 189.

Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) ***Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle***~~[While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005]~~;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) ***Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle,***~~[While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005]~~ if the person is under the age of twenty-one (21).

(2) ***With the exception of the results of the tests administered pursuant to subsection (7) of Section 8 of this Act, if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under paragraphs (1)(a) and (1)(e) of this section. The results of the test or tests, however, may be admissible in a prosecution under paragraphs (1)(b) and (1)(d).***

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~] based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4)[~~(3)~~]The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5)[~~(4)~~]Any person who violates the provisions of paragraphs (a), (b), (c)***,*** or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both.[~~ If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.~~] Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(c) [~~If the alcohol concentration is below 0.18, ~~]For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release***[~~ If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony~~].

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6)[~~(5)~~]Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection ***(5)***[~~(4)~~] of this section or any other penalty established pursuant to KRS Chapter 189A***, except those established in subsection (1) of Section 3 of this Act***.

(7)[~~(6)~~]If the person is under the age of twenty-one (21) and there was an alcohol concentration of ***0.08***[~~0.10~~] or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection ***(5)***[~~(4)~~] of this section.

(8)[~~(7)~~]For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor

shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9)~~[(8)]~~When sentencing persons under subsection *(5)*~~[(4)]~~(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10)~~[(9)]~~ In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

- ***(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;***
- ***(b) Operating a motor vehicle in the wrong direction on a limited access highway;***
- ***(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;***
- ***(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;***
- ***(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and***
- ***(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.***

(12)~~[(10)]~~ Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections *(5)*~~[(4)]~~ and *(6)*~~[(5)]~~ of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(a) ***or (6)*** of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender ***or a person convicted under subsection (1)(e) of Section 2 of this Act***:

- (a) The treatment or education shall be ***completed within***~~[for]~~ a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. ***The alcohol or substance abuse education program, or combination thereof, shall not exceed nine (9) hours in length and no court or state agency shall have the authority to extend the length of the program by administrative regulation or otherwise.***
- (b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.
- (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant ***shall***~~[may]~~ be released prior to the expiration of the ninety (90) day period.
- (d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

- (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.
- (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.
- (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.
- (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(c) or (d) of KRS 189A.010, the court shall sentence the

person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health Services for services as required under this section.

(6) The Cabinet for Health Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010***(1)(a), (b), (c), or (d)*** shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***~~[($200)]~~, which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The ***revenue collected from the*** service fee ***imposed by this section*** shall be utilized~~[to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.]~~ ***as follows:***

(a) Fifteen percent (15%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b)~~[(4)]~~Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy***;***~~[. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds]~~

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(e) The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in paragraphs (a), (b), and (c) of subsection (3) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 5. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

   (a) For the first offense within a five (5) year period, ***for a period of not less than thirty (30) days nor more than one hundred twenty (120)***[~~ninety~~] days;

   (b) For the second offense within a five (5) year period, ***for a period of not less than*** twelve (12) months ***nor more than eighteen (18) months***;

   (c) For a third offense within a five (5) year period, ***for a period of not less than*** twenty-four (24) months ***nor more than thirty-six (36) months***; and

   (d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

   (e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010***(5)***[~~(4)~~](e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040***. However, if the person has enrolled in the program within the time required by law, and the administrator of the program certifies in writing to the Transportation Cabinet that the person will be unable to complete the program within the license suspension period, the cabinet shall forthwith restore the person's license or driving privileges at the conclusion of the suspension period for a period of time sufficient for the person to complete the program, not to exceed one hundred twenty (120) days. If, following the restoration period, the person has not yet completed the program, the license or driving privileges shall be revoked until completion of the program***.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 6. KRS 189A.080 is amended to read as follows:

[~~(1)~~]All licenses suspended or revoked pursuant to ***subsection (6) of Section 2 of this Act,*** KRS[~~ 189A.060 or~~] 189A.070[~~(1)~~]***, or Sections 10, 13, or 14 of this Act*** shall be surrendered to the court ***and forwarded to the Transportation Cabinet***.[~~ Other revocations pursuant to this chapter shall be administered by the Transportation Cabinet.~~

~~(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to KRS 189A.060 or 189A.070(1) is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the Transportation Cabinet.~~

~~(3) At the end of the period of license suspension or revocation, imposed pursuant to KRS 189A.060 or 189A.070(1), the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the Transportation Cabinet for other reasons, the license shall be returned.~~]

Section 7. KRS 189A.090 is amended to read as follows:

(1) No person shall operate ***or be in physical control of*** a motor vehicle while his license is revoked or suspended ***under Section 5 of this Act, subsection (6) of Section 2 of this Act, or Sections 10, 13, or 14 of this Act***[~~for violation of KRS 189A.010, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010~~].

(2) ***In addition to any other penalty imposed by the court,*** any person who violates subsection (1) of this section shall:

   (a) For a first offense ***within a five (5) year period***, be guilty of a Class B misdemeanor ***and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year***;

   (b) For a second offense ***within a five (5) year period***, be guilty of a Class A misdemeanor ***and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in***

physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense ***within a five (5) year period***, be guilty of a Class D felony ***and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years***.

(3) ***The five (5) year period under this section shall be measured in the same manner as in Section 5 of this Act***~~[In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation]~~.

Section 8. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He ***has***~~[is deemed to have]~~ given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if ***an officer has reasonable grounds to believe that***~~[arrested for any offense arising out of]~~ a violation of KRS 189A.010(1) or 189.520(1) ***has occurred***.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet***, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes***.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. ***The secretary of the Justice Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.***

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) ***After the person has submitted to all alcohol concentration tests and substance tests requested by the officer*** the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 9. KRS 189A.105 is amended to read as follows:

(1) ***A person's***~~[No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his]~~ refusal to submit to~~[such]~~ tests ***under Section 8 of this Act*** shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the ***fact of this refusal may be used against him in court as evidence of violating Section 2 of this Act and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating subsection (1) of Section 2 of this Act then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license***~~[person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter]~~; and

2. That, if a test is taken, ***the results of the test may be used against him in court as evidence of violating subsection (1) of Section 2 of this Act, and that if the results of the test are 0.18 or above and the person***

is subsequently convicted of violating subsection (1) of Section 2 of this Act, then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18[~~and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days~~]; and

3. That ***if the person first submits to the requested alcohol and substance tests,*** the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney, and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by Section 2 of this Act and Section 10 of this Act shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in Section 8 of this Act within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 10. KRS 189A.107 is amended to read as follows:

(1) ***A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated subsection (1) of Section 2 of this Act shall have his driver's license suspended by the court during the pendency of the action under Section 13 of this Act***[~~Except as provided in KRS 189A.220(2), suspensions for refusal to take an alcohol concentration or substance test shall be as follows:~~

~~(a) For a first refusal in a five (5) year period, six (6) months;~~

~~(b) For a second refusal within a five (5) year period, eighteen (18) months;~~

~~(c) For a third refusal within a five (5) year period, thirty six (36) months; and~~

~~(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months~~].

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which ***it is alleged that*** he refused to take an alcohol concentration or substance test, ***upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under Sections 13 and 14 of this Act. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time within the time range specified that the license would have been suspended upon conviction as set forth in subsection (1) of Section 5 of this Act***[~~the court's final judgment shall impose the penalty required by this section. Except as provided in KRS 189A.220(2), in the event a defendant is convicted of a violation of KRS 189A.010(1), the final judgment shall impose the license revocation penalty required by this section or the license penalty revocation required for the conviction, whichever is longer~~].

Section 11. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***[~~0.10~~] or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the

court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 12. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

  (a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

  (b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~], such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

  (c) If there was an alcohol concentration of ***0.08***[~~0.10~~] or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

Section 13. KRS 189A.200 is amended to read as follows:

(1) [~~In addition to the pretrial suspension of a motor vehicle operator's license authorized by KRS 189A.060, ~~]The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1)[~~(a), (b), (c), or (d)~~] who:

  (a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;[~~ or~~]

  (b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010***(5)***[~~(4)~~](e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest***; or***

  (c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court clerk shall ***forthwith transmit to the Transportation Cabinet***[~~retain~~] any license surrendered to him pursuant to this section[~~ until:~~]

  ~~(a) The court enters an order directing the return of the license to the defendant;~~

  ~~(b) In the event of a first offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), ninety (90) days have elapsed since the surrender of the license and the case has not been concluded;~~

  ~~(c) In the event of a second offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twelve (12) months have elapsed since the surrender of the license and the case has not been concluded;~~

  ~~(d) In the event of a third offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twenty-four (24) months have elapsed since the surrender of the license and the case has not been concluded;~~

  ~~(e) In the event of a fourth or subsequent offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), sixty (60) months have elapsed since the surrender of the license and the case has not been concluded;~~

  ~~(f) In the event of a charge involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), the period specified by KRS 189A.107 has elapsed since the~~

~~surrender of the license and the case has not been concluded;~~

~~(g) A judgment of acquittal is entered in the case unless the applicable suspension period required by KRS 189A.107 has not expired; or~~

~~(h) A judgment of conviction for a violation of KRS 189A.010(1)(a), (b), (c), or (d) is entered in the case, whereupon the clerk shall transmit the license forthwith to the Department of Transportation]~~.

(5) ***Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***~~[The clerk shall promptly notify the Department of Transportation of all licenses surrendered pursuant to this section]~~.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed***. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***~~[upon conviction]~~.

Section 14. KRS 189A.220 is amended to read as follows:

~~[(1)]~~In any judicial review of a pretrial suspension imposed for refusal to take an alcohol concentration or substance test, if the court determines, by the preponderance of the evidence, that:

(1)~~[(a)]~~The person was charged and arrested by a peace officer with violation of KRS 189A.010(1);

(2)~~[(b)]~~The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010(1);

(3)~~[(c)]~~The person was advised of the implied consent law pursuant to KRS 189A.103;

(4)~~[(d)]~~The peace officer requested the person to take the test or tests pursuant to KRS 189A.103; and then

(5)~~[(e)]~~The person refused to take a test requested by a peace officer pursuant to KRS 189A.103,

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle ***during the pendency of the proceedings***.

~~[(2) If there is a conviction prior to a judicial review of a pretrial suspension for refusal to take an alcohol concentration or substance test, then the period of revocation applicable to the conviction shall apply.]~~

SECTION 15. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

In any judicial review of a pretrial suspension imposed under subsection (1)(c) of Section 13 of this Act, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of Section 2 of this Act;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of Section 2 of this Act;

(3) There is probable cause to believe that the person committed the violation of subsection (1) of Section 2 of this Act as charged; and

(4) There is probable cause to believe that the person was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

Section 16. KRS 189A.310 is amended to read as follows:

(1) A court may, upon application of the defendant, ***or attorney for the Commonwealth or upon its own motion***~~[and with notice to the Transportation Cabinet, which shall be a party]~~, and if the facts of the case so indicate, order that a prior conviction ***not meeting applicable case law regarding admissibility of a prior conviction*** cannot be used to enhance ***criminal*** penalties ***including***~~[or]~~ license suspensions or revocations, or for other purposes for which such a conviction might be used.

(2)~~[Determinations pursuant to this section shall be made in strict conformity to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969), and the requirements of that case shall not be expanded upon unless later applicable case law so dictates.~~

~~(3) The provisions of this section shall not apply to a case in which the prior conviction has not been subject to final judgment, or is under appeal at the time the defendant makes his application pursuant to subsection (1).~~

~~(4)]~~ The Transportation Cabinet shall give full faith and credit to any court decision meeting the requirements of this section.

Section 17. KRS 189A.410 is amended to read as follows:

(1) At any time following ***the expiration of the minimum license suspension periods enumerated in subsection (6) of Section 2 of this Act and Sections 5 and 10 of this Act***~~[conviction for a first offense violation of KRS 189A.010]~~ the

court *may*[~~shall~~] grant the person hardship driving privileges for the *balance of the suspension period imposed by the court*[~~final sixty (60) days of his initial ninety (90) day revocation~~], upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

Section 18. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For purposes of this section, "alcoholic beverage" means:

(a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(4) For the purposes of this section "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and

(a) Is open or has a broken seal; or

(b) The contents of which are partially removed.

(5) For the purposes of this section "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(6) For the purpose of this section "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(7) No person shall, as a result of a single course of conduct, be tried for or convicted of a violation of this section and a violation of KRS 222.202 or KRS 525.100. The attorney for the Commonwealth shall elect under which statute to proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes for offenses arising out of the same course of conduct.

SECTION 19. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Upon the conviction of a second or subsequent offense of Section 2 of this Act, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of subsection (1)(a), (b), (c), or (d) of Section 2 of this Act, shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 20. KRS 186.018 is amended to read as follows:

(1) For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. Except as provided in subsection (2) of this section, the Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.

(2) The Transportation Cabinet shall not release information on the driving history record of a person under the age of twenty-one (21) whose operator license has been suspended pursuant to KRS 189A.010***(6)***~~[(5)]~~. The cabinet shall destroy, and shall not maintain, the record of the suspension of a person's operator's license if the license was suspended pursuant to KRS 189A.010***(6)***~~[(5)]~~, within five (5) working days of the person's operator's license being reinstated.

(3) The cabinet shall charge a fee of three dollars ($3) for any driving history record, ten cents ($0.10) of which shall be deposited in a special account within the road fund to be used exclusively by the Transportation Cabinet for the state driver education program as designated in KRS 186.535.

Section 21. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010***(5)***~~[(4)]~~(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

Section 22. KRS 235.240 is amended to read as follows:

(1) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to ***(4)***~~[(3)]~~, except that the penalties for this offense are set forth in KRS 235.990.

Section 23. KRS 281A.2102 is amended to read as follows:

In addition to the penalties established by this chapter for driving a commercial motor vehicle under the influence of alcohol:

(1) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is four hundredths (0.04) to eight hundredths (0.08) shall be fined not less than twenty dollars ($20) and not more

than fifty dollars ($50).

(2) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is greater than eight hundredths (0.08) shall be fined under the provisions of KRS 189A.010***(5)***~~[(4)]~~(a) to (d).

Section 24. KRS 189A.100 is amended to read as follows:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means ***the pursuit of a violator or suspected violator, the traffic stop, or*** field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording ***of the field sobriety tests and the entire recording of such portions of the pursuit and traffic stop as were recorded*** is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only***, which shall include:***

1. Viewing in court;

2. Viewing by the prosecution and defense in preparation for a trial; and

3. Viewing for purposes of administrative reviews and official administrative proceedings~~[and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court]~~. Recordings shall otherwise be considered as confidential records; and

(f) ***The videotape or film taken in accordance with this section shall, upon order of the District Court, be destroyed after the later of the following:***

1. Fourteen (14) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, or if the videotape or film does not record the actual happening of an accident involving a motor vehicle;

2. Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation issued as a result of the videotape or film, if the videotape does not record the actual happening of an accident involving a motor vehicle;

3. Twenty-six (26) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, if the videotape or film records the actual happening of an accident involving a motor vehicle;

4. After all appeals have been exhausted arising from any criminal or traffic case filed as a result of the videotape;

5. At the conclusion of any civil case arising from events depicted on the videotape or film; or

6. At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from events depicted on the videotape or film; and~~[After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and]~~

(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) When a peace officer makes a videotape or film recording of any transaction covered by subsection (2) of this section and a citation is issued or an arrest is made the peace officer shall note on the uniform citation that a videotape has been made of the transaction.

Section 25. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor

more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) *(a)* Any person who violates KRS 189.530*(1)* shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates subsection (2) of Section 18 of this Act shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than

twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 26. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS~~[189A.060,]~~ 189A.070 ***or***~~[,]~~ and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

Section 27. The following KRS sections are repealed:

186.642 "Habitual violator" defined.

186.643 Information to be filed by county attorney.

186.644 Hearing.

186.645 Findings of court.

186.646 License not to be issued to habitual violator.

186.647 Restoration of license.

186.648 Appeal.

186.649 Law not to affect existing laws or ordinances of political subdivisions.

186.992 Penalty.

189A.015 Offenses committed prior to July 13, 1984.

189A.060 Pretrial suspension of operator's license.

Section 28. This Act shall become effective October 1, 2000."

Floor Amendment No. 2 House Committee Substitute to **SB 298**, by Representative Wilkey:

By deleting everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused ***if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered***;~~[and]~~

(3) When age is a factor, it shall mean age at the time of the commission of the offense***;***

(4) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment;

(5) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapters 186 or 189.

Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) ***Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle***~~[While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005]~~;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) ***Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle,***~~[While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005]~~ if the person is under the age of twenty-one (21).

(2) ***With the exception of the results of the tests administered pursuant to subsection (7) of Section 8 of this Act, if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under paragraphs (1)(a) and (1)(e) of this section. The results of the test or tests, however, may be admissible in a prosecution under paragraphs (1)(b) and (1)(d).***

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~] based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4)[~~(3)~~]The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5)[~~(4)~~]Any person who violates the provisions of paragraphs (a), (b), (c), or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both.[~~ If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.~~] Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(c) [~~If the alcohol concentration is below 0.18,~~]For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release***[~~. If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony~~].

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6)[~~(5)~~]Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection ***(5)***[~~(4)~~] of this section or any other penalty established pursuant to KRS Chapter 189A***, except those established in subsection (1) of Section 3 of this Act***.

(7)[~~(6)~~]If the person is under the age of twenty-one (21) and there was an alcohol concentration of ***0.08***[~~0.10~~] or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection ***(5)***[~~(4)~~] of this section.

(8)[~~(7)~~]For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor

shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9)[~~(8)~~]When sentencing persons under subsection ***(5)***[~~(4)~~](a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10)[~~(9)~~] In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12)[~~(10)~~] Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections ***(5)***[~~(4)~~] and ***(6)***[~~(5)~~] of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](a) ***or (6)*** of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender ***or a person convicted under subsection (1)(e) of Section 2 of this Act***:

(a) The treatment or education shall be ***completed within***[~~for~~] a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. ***The alcohol or substance abuse education program, or combination thereof, shall not exceed nine (9) hours in length and no court or state agency shall have the authority to extend the length of the program by administrative regulation or otherwise.***

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant ***shall***[~~may~~] be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](c) or (d) of KRS 189A.010, the court shall sentence the

person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health Services for services as required under this section.

(6) The Cabinet for Health Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010***(1)(a), (b), (c), or (d)*** shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***[~~($200)~~], which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The ***revenue collected from the*** service fee ***imposed by this section*** shall be utilized[~~ to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.~~] ***as follows:***

(a) Fifteen percent (15%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b)[~~(4)~~]Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy***;***[~~. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds~~]

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(e) The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in paragraphs (a), (b), and (c) of subsection (3) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 5. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, ***for a period of not less than thirty (30) days nor more than one hundred twenty (120)***[~~ninety~~] days;

(b) For the second offense within a five (5) year period, ***for a period of not less than*** twelve (12) months ***nor more than eighteen (18) months***;

(c) For a third offense within a five (5) year period, ***for a period of not less than*** twenty-four (24) months ***nor more than thirty-six (36) months***; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010***(5)***[~~(4)~~](e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040***. However, if the person has enrolled in the program within the time required by law, and the administrator of the program certifies in writing to the Transportation Cabinet that the person will be unable to complete the program within the license suspension period, the cabinet shall forthwith restore the person's license or driving privileges at the conclusion of the suspension period for a period of time sufficient for the person to complete the program, not to exceed one hundred twenty (120) days. If, following the restoration period, the person has not yet completed the program, the license or driving privileges shall be revoked until completion of the program***.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 6. KRS 189A.080 is amended to read as follows:

[~~(1)~~]All licenses suspended or revoked pursuant to ***subsection (6) of Section 2 of this Act,*** KRS[~~ 189A.060 or~~] 189A.070[~~(1)~~]***, or Sections 10, 13, or 14 of this Act*** shall be surrendered to the court ***and forwarded to the Transportation Cabinet***.[~~ Other revocations pursuant to this chapter shall be administered by the Transportation Cabinet.~~

~~(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to KRS 189A.060 or 189A.070(1) is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the Transportation Cabinet.~~

~~(3) At the end of the period of license suspension or revocation, imposed pursuant to KRS 189A.060 or 189A.070(1), the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the Transportation Cabinet for other reasons, the license shall be returned.~~]

Section 7. KRS 189A.090 is amended to read as follows:

(1) No person shall operate ***or be in physical control of*** a motor vehicle while his license is revoked or suspended ***under Section 5 of this Act, subsection (6) of Section 2 of this Act, or Sections 10, 13, or 14 of this Act***[~~for violation of KRS 189A.010, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010~~].

(2) ***In addition to any other penalty imposed by the court,*** any person who violates subsection (1) of this section shall:

(a) For a first offense ***within a five (5) year period***, be guilty of a Class B misdemeanor ***and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year***;

(b) For a second offense ***within a five (5) year period***, be guilty of a Class A misdemeanor ***and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in***

physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense ***within a five (5) year period***, be guilty of a Class D felony ***and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years***.

(3) ***The five (5) year period under this section shall be measured in the same manner as in Section 5 of this Act***~~[In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation]~~.

Section 8. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He ***has***~~[is deemed to have]~~ given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if ***an officer has reasonable grounds to believe that***~~[arrested for any offense arising out of]~~ a violation of KRS 189A.010(1) or 189.520(1) ***has occurred***.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet***, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes***.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. ***The secretary of the Justice Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.***

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) ***After the person has submitted to all alcohol concentration tests and substance tests requested by the officer*** the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 9. KRS 189A.105 is amended to read as follows:

(1) ***A person's***~~[No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his]~~ refusal to submit to~~[such]~~ tests ***under Section 8 of this Act*** shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the ***fact of this refusal may be used against him in court as evidence of violating Section 2 of this Act and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating subsection (1) of Section 2 of this Act then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license***~~[person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter]~~; and

2. That, if a test is taken***, the results of the test may be used against him in court as evidence of violating subsection (1) of Section 2 of this Act, and that if the results of the test are 0.18 or above and the person***

is subsequently convicted of violating subsection (1) of Section 2 of this Act, then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18[~~and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days~~]; and

3. That ***if the person first submits to the requested alcohol and substance tests,*** the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation ~~of~~ KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney, and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by Section 2 of this Act and Section 10 of this Act shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in Section 8 of this Act within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 10. KRS 189A.107 is amended to read as follows:

(1) ***A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated subsection (1) of Section 2 of this Act shall have his driver's license suspended by the court during the pendency of the action under Section 13 of this Act***[~~Except as provided in KRS 189A.220(2), suspensions for refusal to take an alcohol concentration or substance test shall be as follows:~~

~~(a) For a first refusal in a five (5) year period, six (6) months;~~

~~(b) For a second refusal within a five (5) year period, eighteen (18) months;~~

~~(c) For a third refusal within a five (5) year period, thirty-six (36) months; and~~

~~(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months~~].

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which ***it is alleged that*** he refused to take an alcohol concentration or substance test, ***upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under Sections 13 and 14 of this Act. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time within the time range specified that the license would have been suspended upon conviction as set forth in subsection (1) of Section 5 of this Act***[~~the court's final judgment shall impose the penalty required by this section. Except as provided in KRS 189A.220(2), in the event a defendant is convicted of a violation of KRS 189A.010(1), the final judgment shall impose the license revocation penalty required by this section or the license penalty revocation required for the conviction, whichever is longer~~].

Section 11. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***[~~0.10~~] or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the

court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 12. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***~~[0.10]~~, such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08***~~[0.10]~~ or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

Section 13. KRS 189A.200 is amended to read as follows:

(1) ~~[In addition to the pretrial suspension of a motor vehicle operator's license authorized by KRS 189A.060,]~~The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1)~~[(a), (b), (c), or (d)]~~ who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;~~[or]~~

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010***(5)***~~[(4)]~~(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest***; or***

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court clerk shall ***forthwith transmit to the Transportation Cabinet***~~[retain]~~ any license surrendered to him pursuant to this section~~[until:~~

~~(a) The court enters an order directing the return of the license to the defendant;~~

~~(b) In the event of a first offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), ninety (90) days have elapsed since the surrender of the license and the case has not been concluded;~~

~~(c) In the event of a second offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twelve (12) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(d) In the event of a third offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twenty-four (24) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(e) In the event of a fourth or subsequent offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), sixty (60) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(f) In the event of a charge involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), the period specified by KRS 189A.107 has elapsed since the~~

~~surrender of the license and the case has not been concluded;~~

~~(g) A judgment of acquittal is entered in the case unless the applicable suspension period required by KRS 189A.107 has not expired; or~~

~~(h) A judgment of conviction for a violation of KRS 189A.010(1)(a), (b), (c), or (d) is entered in the case, whereupon the clerk shall transmit the license forthwith to the Department of Transportation]~~.

(5) ***Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***~~[The clerk shall promptly notify the Department of Transportation of all licenses surrendered pursuant to this section]~~.

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. ***Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***~~[upon conviction]~~.

Section 14. KRS 189A.220 is amended to read as follows:

~~[(1)]~~In any judicial review of a pretrial suspension imposed for refusal to take an alcohol concentration or substance test, if the court determines, by the preponderance of the evidence, that:

(1)~~[(a)]~~The person was charged and arrested by a peace officer with violation of KRS 189A.010(1);

(2)~~[(b)]~~The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010(1);

(3)~~[(c)]~~The person was advised of the implied consent law pursuant to KRS 189A.103;

(4)~~[(d)]~~The peace officer requested the person to take the test or tests pursuant to KRS 189A.103; and then

(5)~~[(e)]~~The person refused to take a test requested by a peace officer pursuant to KRS 189A.103,

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle ***during the pendency of the proceedings***.

~~[(2) If there is a conviction prior to a judicial review of a pretrial suspension for refusal to take an alcohol concentration or substance test, then the period of revocation applicable to the conviction shall apply.]~~

SECTION 15. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

In any judicial review of a pretrial suspension imposed under subsection (1)(c) of Section 13 of this Act, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of Section 2 of this Act;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of Section 2 of this Act;

(3) There is probable cause to believe that the person committed the violation of subsection (1) of Section 2 of this Act as charged; and

(4) There is probable cause to believe that the person was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

Section 16. KRS 189A.310 is amended to read as follows:

(1) A court may, upon application of the defendant, ***or attorney for the Commonwealth or upon its own motion***~~[and with notice to the Transportation Cabinet, which shall be a party]~~, and if the facts of the case so indicate, order that a prior conviction ***not meeting applicable case law regarding admissibility of a prior conviction*** cannot be used to enhance ***criminal*** penalties ***including***~~[or]~~ license suspensions or revocations, or for other purposes for which such a conviction might be used.

(2)~~[Determinations pursuant to this section shall be made in strict conformity to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969), and the requirements of that case shall not be expanded upon unless later applicable case law so dictates.~~

~~(3) The provisions of this section shall not apply to a case in which the prior conviction has not been subject to final judgment, or is under appeal at the time the defendant makes his application pursuant to subsection (1).~~

~~(4)]~~ The Transportation Cabinet shall give full faith and credit to any court decision meeting the requirements of this section.

Section 17. KRS 189A.410 is amended to read as follows:

(1) At any time following ***the expiration of the minimum license suspension periods enumerated in subsection (6) of Section 2 of this Act and Sections 5 and 10 of this Act***~~[conviction for a first offense violation of KRS 189A.010]~~ the

court ***may***[~~shall~~] grant the person hardship driving privileges for the ***balance of the suspension period imposed by the court***[~~final sixty (60) days of his initial ninety (90) day revocation~~], upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

Section 18. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For purposes of this section, "alcoholic beverage" means:

(a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(4) For the purposes of this section "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and

(a) Is open or has a broken seal; or

(b) The contents of which are partially removed.

(5) For the purposes of this section "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(6) For the purpose of this section "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(7) No person shall, as a result of a single course of conduct, be tried for or convicted of a violation of this section and a violation of KRS 222.202 or KRS 525.100. The attorney for the Commonwealth shall elect under which statute to proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes for offenses arising out of the same course of conduct.

SECTION 19. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Upon the conviction of a second or subsequent offense of Section 2 of this Act, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of subsection (1)(a), (b), (c), or (d) of Section 2 of this Act, shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 20. KRS 186.018 is amended to read as follows:

(1) For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. Except as provided in subsection (2) of this section, the Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.

(2) The Transportation Cabinet shall not release information on the driving history record of a person under the age of twenty-one (21) whose operator license has been suspended pursuant to KRS 189A.010*(6)*~~[(5)]~~. The cabinet shall destroy, and shall not maintain, the record of the suspension of a person's operator's license if the license was suspended pursuant to KRS 189A.010*(6)*~~[(5)]~~, within five (5) working days of the person's operator's license being reinstated.

(3) The cabinet shall charge a fee of three dollars ($3) for any driving history record, ten cents ($0.10) of which shall be deposited in a special account within the road fund to be used exclusively by the Transportation Cabinet for the state driver education program as designated in KRS 186.535.

Section 21. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010*(5)*~~[(4)]~~(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

Section 22. KRS 235.240 is amended to read as follows:

(1) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to *(4)*~~[(3)]~~, except that the penalties for this offense are set forth in KRS 235.990.

Section 23. KRS 281A.2102 is amended to read as follows:

In addition to the penalties established by this chapter for driving a commercial motor vehicle under the influence of alcohol:

(1) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is four hundredths (0.04) to eight hundredths (0.08) shall be fined not less than twenty dollars ($20) and not more

than fifty dollars ($50).

(2) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is greater than eight hundredths (0.08) shall be fined under the provisions of KRS 189A.010***(5)***~~[(4)]~~(a) to (d).

Section 24. KRS 189A.100 is amended to read as follows:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means ***the pursuit of a violator or suspected violator, the traffic stop, or*** field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording ***of the field sobriety tests and the entire recording of such portions of the pursuit and traffic stop as were recorded*** is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only***, which shall include:***

1. Viewing in court;

2. Viewing by the prosecution and defense in preparation for a trial; and

3. Viewing for purposes of administrative reviews and official administrative proceedings~~[and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court]~~. Recordings shall otherwise be considered as confidential records; and

(f) ***The videotape or film taken in accordance with this section shall, upon order of the District Court, be destroyed after the later of the following:***

1. Fourteen (14) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, or if the videotape or film does not record the actual happening of an accident involving a motor vehicle;

2. Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation issued as a result of the videotape or film, if the videotape does not record the actual happening of an accident involving a motor vehicle;

3. Twenty-six (26) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, if the videotape or film records the actual happening of an accident involving a motor vehicle;

4. After all appeals have been exhausted arising from any criminal or traffic case filed as a result of the videotape;

5. At the conclusion of any civil case arising from events depicted on the videotape or film; or

6. At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from events depicted on the videotape or film; and~~[After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and]~~

(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) When a peace officer makes a videotape or film recording of any transaction covered by subsection (2) of this section and a citation is issued or an arrest is made the peace officer shall note on the uniform citation that a videotape has been made of the transaction.

Section 25. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor

more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) ***(a)*** Any person who violates KRS 189.530***(1)*** shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates subsection (2) of Section 18 of this Act shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than

twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 26. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS[~~ 189A.060,~~] 189A.070 ***or***[~~,~~] and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.

Section 27. The following KRS sections are repealed:

186.642 "Habitual violator" defined.

186.643 Information to be filed by county attorney.

186.644 Hearing.

186.645 Findings of court.

186.646 License not to be issued to habitual violator.

186.647 Restoration of license.

186.648 Appeal.

186.649 Law not to affect existing laws or ordinances of political subdivisions.

186.992 Penalty.

189A.015 Offenses committed prior to July 13, 1984.

189A.060 Pretrial suspension of operator's license.

Section 28. This Act shall become effective October 1, 2000."

Floor Amendment No. 2 Title to **SJR 68**, by Representative Sims:

On page 1, amend the title to read as follows:

"A JOINT RESOLUTION relating to fuel.".

Floor Amendment No. 1 to **SJR 68**, by Representative Sims:

On page 1, in the last "WHEREAS" clause after the semicolon ";" insert:

"and

WHEREAS, the dependence on foreign oil has adversely affected the economic well-being of all Kentuckians; and

WHEREAS, the use of conventional vehicle fuel creates undesirable levels of toxic emissions detrimental to the health of every Kentuckian; and

WHEREAS, use of alternative fuels for vehicles results in significant reductions of toxic emissions; and

WHEREAS, additional development of existing alternative fuel infrastructure as a vital foundation for economic growth and opportunity is necessary to promote broader use and acceptance of alternative fuel vehicles; and

WHEREAS, Kentucky is a leader in the production of grain, natural gas, coal, and other products and technologies, such as bio-diesel, propane, and electricity; and

WHEREAS, the Kentucky Clean Fuels Coalition has promoted the use of alternative fuels in the Commonwealth since 1993; and

WHEREAS, there are benefits to Kentucky and Kentuckians in increased availability, convenience, and use of alternative fuel vehicles;"; and

On page 1, after line 8, insert:

"Section 3. The Kentucky Alternative Fuel Task Force is established. Its members shall study the issues surrounding alternative fuel use in vehicles and report its findings and recommendations.

Section 4. The task force shall consist of the following membership:

(1) The Lieutenant Governor shall serve as chair. One co-chair shall be named by the President of the Senate and one co-chair shall be named by the Speaker of the House of Representatives.

(2) Eight (8) additional members from the General Assembly, four (4) being selected from the Senate and four (4) being selected from the House of Representatives. Majority leadership of each chamber shall choose two (2) members and minority leadership shall choose the remaining two (2).

(3) Ten (10) members appointed by the chair from a list of nominees provided by the Kentucky Clean Fuels Coalition. The list may include, but should not be limited to, members of the coalition.

Section 5. A majority of the members shall constitute a quorum.

Section 6. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses.

Section 7. The task force shall meet monthly beginning in July of 2000, and may meet more often upon the call of the chair or by a majority of the members.

Section 8. The task force shall report findings and recommendations to the Governor and to the Legislative Research Commission by January 15, 2001. Recommendations may be made in the form of a State Alternative Fuel Plan and should include the following:

(1) Proposed incentives designed to lead to increased use and availability of alternative fuels for vehicles.

(2) Regulatory constraints and environmental considerations.

(3) Continuing research and education.

(4) Fiscal impact of proposed incentives.

(5) Suggestions for increasing the use of alternative fuels in dual-fuel vehicles owned by the Commonwealth.

Section 9. Staffing and administrative responsibilities for the task force shall be performed by the Natural Resources and Environmental Protection Cabinet with assistance from the Office of the Lieutenant Governor.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 279**, by Representative Collins:

On page 16, after line 9 by adding

"SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health benefit plans issued or renewed after the effective date of this Act shall provide coverage for the treatment of a congenital condition if the condition presently results in a functional defect or will progress to a level of partial or inhibited function which deviates from the expected function if the congenital condition were not present.

(2) As used in this subtitle "congenital condition" means a physiological or structural abnormality that develops before birth and that exists at birth. A "congenital condition" is not hereditary."

Floor Amendment No. 1 to **SB 76**, by Representative Treesh:

On page 3, line 3, after "elected", by placing an open bracket before "," and a closing bracket after "consecutive" and striking through the intervening language;

On page 7, line 17, after the second "school" by inserting "***meeting its goal***" and placing an open bracket before "performing" and a closing bracket after "requirement" and striking through all intervening language; and

On page 8, line 9, after "serve." by inserting "***By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed.***".

Floor Amendment No. 1 to **SB 46**, by Representative Johns:

On page 1, between lines 23 and 24, by inserting

"***(e) "Support employee" means any employee of a local district who is not an administrator or a teacher.***";

On page 2, line 11, after "teachers," by inserting "***one (1) support employee,***";

On page 3, line 2, after "purpose." by inserting "***The support employee shall be elected for a one (1) year term by a majority of the support employees assigned to the employee's school.***";

On page 3, line 3, after "parent" by inserting "***, support employee,***"; and

On page 3, line 4, after "elected" by placing an open bracket before "," and a closing bracket after "consecutive" and striking through the intervening language.".

Floor Amendment No. 2 Title to **SB 326**, by Representative Jenkins:

By amending the title to read as follows: "AN ACT relating to public agencies.".

Floor Amendment No. 1 to **SB 326**, by Representative Jenkins:

On Page 4, after line 9, by inserting:

"Section 4. KRS 30A.200 is amended to read as follows:

All moneys which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt;

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court;

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the State Treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth; and

(4) In a criminal proceeding or in a proceeding under ***KRS 31.120 or 189A.050,*** KRS Chapter 186 to KRS Chapter 189A***, and KRS 431.102***, assessed a fee of five percent (5%) of the total value of the deposit, which shall be paid by the depositor at the time of making the deposit and which shall be in addition to the amount deposited. The fee shall be deposited by the clerk into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerk to hire additional deputy clerks and for ***increases***[~~enhancement~~] of deputy clerk salaries to compensate for the additional duties necessitated by this section.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 170**, by Representative Ford:

On page 3, line 21, by deleting "***and***" and by inserting "***;***" after "***Kentucky***"; and

On page 3, line 23, after "***loan***" by inserting:

"***; and any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate***"

Floor Amendment No. 1 to **SB 288**, by Representative Jenkins:

On page 19, between lines 6 and 7, by inserting the following:

"Section 7. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994***, and shall include a mail order drug option as provided in subsection (14) of this section***. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental

insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The secretary shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail order drug option for state employees. An insurer that provides health insurance coverage for state employees that includes the mail order drug option shall not discriminate against any pharmacy located within the geographic coverage area of the

health benefit plan who is willing to meet the mail order drug prices and any other terms and conditions for participation established by the insurer for coverage of drugs.

(15) No formulary changes under the drug benefit in policies of health insurance coverage procured under subsection (2) of this section shall be made unless the changes have been filed with and approved by the commissioner of the Department of Insurance. The commissioner shall review the changes and either approve or disapprove the changes within thirty (30) days of filing. At the expiration of the thirty (30) day period, and in the absence of any action by the commissioner, the formulary changes shall be deemed approved. Appeals from an order of the commissioner disapproving any formulary changes shall be taken as provided in Subtitle 2 of KRS Chapter 304.

(a) Changes to drug formularies shall be limited to quarterly changes.

(b) Insurers shall provide to the Personnel Cabinet, the Department of Insurance, and affected members of the state employees' group the reasons for any formulary changes, at the time the changes are filed with the commissioner.

(c) Insurers shall give at least thirty (30) days notice to affected insureds in established treatment regimes involving maintenance drugs before any formulary changes approved by the commissioner become effective.

(d) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change approved by the commissioner, if the physician supervising treatment certifies that the change is not in the best interests of the patient. The commissioner may, on a case-by-case basis, grant exceptions that prohibit application of an approved formulary change to individual insureds under this paragraph.";

And by renumbering the subsequent section accordingly.

Motions, Petitions, and Communications (Continued)

The following member has filed a request to have his name added as a co-sponsor of a Bill under rules previously suspended:

HB 814: Representative Coleman

Announcements

Local Government, March 20, 2000, 1:00 p.m., Room 149

Elections, Constitutional Amendments, and Intergovernmental Affairs, March 20, 2000, 3:00 p.m., Room 111

Women's Caucus, March 17, 2000, upon adjournment

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 20, 2000.

The motion that the House adjourn until 4:00 p.m., March 20, 2000, was adopted by voice vote.

MARCH 20, 2000

FIFTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Doctor S. David Carr, Somerset Baptist Temple, Somerset.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Jordan.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 17, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 15, SB 209, SB 216, SB 314, HB 4,** and **HB 180**. (Time: 4:10 p.m.)

Message in regard to **HB 47**: The Senate has passed **HB 47** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 220**: The Senate has passed **HB 220** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 274**: The Senate has passed **HB 274** with Senate Committee Amendment and Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 410**: The Senate has passed **HB 410** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 472**: The Senate has passed **HB 472** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Representative McKee moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative McKee moved the adoption of the following **Legislative Citation No. 122**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the 1999 Harrison County Marching Thorobreds upon being named the well-deserving recipient of Grand Champion and Kentucky Governor's Cup Honors in the Contest of Champions, a feat representing the first time in 38 years of competition that a small division band has captured the Grand Champion Title. Further accomplishments of this phenomenal band include being named Grand Champion at the Northern Kentucky Marching Band Festival; Division II Champion and Kentucky Governor's Cup Honors in Bands of America Regional Competition; Grand Champion Honors in the Henry Clay Invitational; Grand Champion and Governor's Cup Honors at the Kentucky State Fair Competition; Grand Champion Honors at the Madison Central Marching Band Competition; and Class AAA State Championship Honors in the 1999 Kentucky Music Educators Marching Band Finals. Inasmuch as this prestigious recognition represents exceptional talent and dedication to the pursuit of excellence in the performing arts, the members of this distinguished body are pleased to join with Representative Thomas McKee in commending all who contributed to these notable accomplishments and in extending best wishes for continued landmarks of success in the future. Done in Frankfort, this twentieth day of March, in the year two thousand.

Legislative Citation No. 122 was adopted without objection.

Representative McKee moved the adoption of the following **Legislative Citation No. 125**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Bob Gregg, Band Director 1999 Harrison County Marching Thorobreds for his phenomenal leadership of this group of musicians which has culminated in them being named Grand Champion and claiming Kentucky Governor's Cup Honors in the Contest of Champions, a feat representing the first time in 38 years of competition that a small division band has captured the Grand Champion Title. Further accomplishments of this phenomenal director and band include being named Grand Champion at the Northern Kentucky Marching Band Festival; Division II Champion and Kentucky Governor's Cup Honors in Bands of America Regional Competition; Grand Champion Honors in the Henry Clay Invitational; Grand Champion and Governor's Cup Honors at the Kentucky State Fair Competition; Grand Champion Honors at the Madison Central Marching Band Competition; and Class AAA State Championship Honors in the 1999 KMEA Marching Band Finals. Director Bob Gregg has made inestimable contributions to the Harrison County High School Music Program, amassing 30 years of distinguished ratings at the KMEA Concert Band Assessments; receiving Governor's Band status 14 out of 15 years at the Kentucky State Fair Marching Band Competition; attaining Grand Champion Status 11 out of 12 years at the Northern Kentucky Marching Band Festival; and being recognized by the John Philip Sousa Foundation as one of the top-ranked marching bands nationwide. The members of this august body are honored to join with Representative Thomas McKee in commending Bob Gregg for the honor and acclaim that he has earned HCHS and the community by his efforts in this worthwhile endeavor and in extending to him best wishes for continued landmarks of success in the future. Done in Frankfort, this twentieth day of March, in the year two thousand.

Legislative Citation No. 125 was adopted without objection.

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 123**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Girl Scouts of America Troop #52 of McLean County, Kentucky, for demonstrating exemplary interest in the democratic process by visiting the Capitol in order to view the daily actions of the Kentucky legislature. The members of this honorable body are pleased to join with Representative Jim Gooch, Jr., in expressing appreciation to the members of the McLean County GSA Troop #52 for attending this day's activities of the 2000 Regular Session of the Kentucky General Assembly. Done in Frankfort, this twentieth day of March, in the year two thousand.

Legislative Citation No. 123 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 157, HB 308, HB 503, HB 536,** and **HJR 100** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:30 p.m.)

Introduction of Resolutions

HR 166, by Representatives Webb, Heleringer, Westrom, Lee, Colter, Reinhardt, Johns, Marzian, Adkins, Riner, and Crall: A RESOLUTION in support of the establishment of a Best Buddies Program in the Commonwealth of Kentucky.

HR 167, by Representative Burch: A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Foster Parents.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 323**

Economic Development: **SB 394**

Judiciary: **SB 408, HR 165**

Local Government: **HCR 164**

Natural Resources and Environment: **SB 179**

State Government: **SB 349**

House Floor: **HR 163**

Report of Committees

The Committee on Rules reported that **SCR 39** has been posted for passage in the Orders of the Day for March 21, 2000.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been withdrawn from Committee consideration:

Health and Welfare: **SB 335, SB 343**

Report of Committees (Continued)

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **SB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 4, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.030 is amended to read as follows:

(1) The State Board of Elections shall publish and broadcast announcements throughout the state regarding the importance of voting in a free and conscientious manner, procedures for registering to vote and voting, general election laws, and penalties for vote buying and selling.

(2) The State Board of Elections shall provide for the conspicuous placement of signs at all precinct polling places, which shall state that vote buying and selling are illegal and shall state the penalties for such acts.

(3) The State Board of Elections shall provide for the conspicuous placement of signs at all precinct polling places, which display the telephone number and mailing address of the local board of elections, and which inform the voters of their right to report any administrative or clerical errors they witness to the local board of elections, either by phone or in writing within ten (10) days after the election.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 98, SB 259, SB 294, HR 153, SB 11, SB 52, SB 72, SB 73, SB 74, SB 116, SB 159, SB 160, SB 163, SB 167, SB 171, SB 189, SB 198, SB 217, SB 223, SB 257, SB 324, SB 326, SB 331,** and **SB 351** have been posted for passage in the Orders of the Day for March 21, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 446, SB 227**

Judiciary: **SB 102**

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 180** and **HB 4** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:02 p.m.)

Orders of the Day

SB 34, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved the adoption of House Floor Amendment No. 1 to **SB 34**. Agreed.

Representative Childers moved that **SB 34**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20, 2000 roll call on **SB 34** - Appendix.)

SB 34, as amended, was passed.

Representative Childers moved the adoption of House Floor Amendment No. 2 Title to **SB 34**. Agreed; and the title was agreed to.

Representative Childers moved that the vote by which **SB 34**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 62, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of House Floor Amendment No. 2 to **SB 62**. Agreed.

Representative Simpson moved that **SB 62**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 20, 2000 roll call on **SB 62** - Appendix.)

SB 62, as amended, was passed and the title agreed to.

Representative Simpson moved that the vote by which **SB 62**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **SB 56** be passed.

On the roll call the vote was: **Yeas 98, Nays 1**. (See March 20 , 2000 roll call on **SB 56** - Appendix.)

SB 56 was passed and the title agreed to.

Representative Graham moved that the vote by which **SB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 91, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the House Committee Substitute to **SB 91**. Agreed.

Representative Rasche moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 91**. Agreed.

Representative Rasche moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 91**. Agreed.

Representative Riner moved the adoption of House Floor Amendment No. 4 to the House Committee Substitute to **SB 91**. Agreed.

Representative Rasche moved that **SB 91**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 20, 2000 roll call on **SB 91** - Appendix.)

SB 91, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 91**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **SB 166** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 20 , 2000 roll call on **SB 166** - Appendix.)

SB 166 was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **SB 202** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 20 , 2000 roll call on **SB 202** - Appendix.)

SB 202 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **SB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 233 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **SB 233** be passed.

On the roll call the vote was: **Yeas 90, Nays 4**. (See March 20 , 2000 roll call on **SB 233** - Appendix.)

SB 233 was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 233** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 58, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the House Committee Substitute to **SB 58**. Agreed.

Representative Bratcher moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 58**. Agreed.

Representative Lindsay inquired if the House Committee Substitute to **SB 58** had a fiscal note.

Representative Graham replied that the House Committee Substitute to **SB 58** did not have a fiscal note.

Representative Graham moved that **SB 58**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 20, 2000 roll call on **SB 58** - Appendix.)

SB 58, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Graham moved that the vote by which **SB 58**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 152, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of the House Committee Substitute to **SB 152**.

Representative Lindsay inquired if Section 4 of the House Committee Substitute to **SB 152** was a violation of the piggyback rule.

The Speaker ruled that the House Committee Substitute to **SB 152** was not a piggyback.

Representative D. Butler moved the adoption of the House Committee Substitute to **SB 152**.

On the roll call the vote was: **Yeas 52, Nays 35**. (See March 20, 2000 roll call on the adoption of the House Committee Substitute to **SB 152**-Appendix.)

The House Committee Substitute to **SB 152** was adopted.

Representative Wilkey moved to reconsider the vote by which the House Committee Substitute to **SB 152** was passed.

On the roll call the vote was: **Yeas 65, Nays 23**. (See March 20, 2000 roll call on the motion to reconsider the vote by which the House Committee Substitute to **SB 152** was passed-Appendix.)

The motion to reconsider the vote by which the House Committee Substitute to **SB 152** was passed was adopted.

Representative D. Butler moved the adoption of the House Committee Substitute to **SB 152**.

Representative Lindsay moved that the House Committee Substitute to **SB 152** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 66, Nays 27**. (See March 20, 2000 roll call on the motion that the House Committee Substitute to **SB 152** be laid on the Clerk's Desk-Appendix.)

The motion that the House Committee Substitute to **SB 152** be laid on the Clerk's Desk was adopted.

SB 3, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 3** be passed.

Representative Heleringer moved the adoption of House Floor Amendment No. 1 to **SB 3**.

Representative Gooch inquired if House Floor Amendment No. 1 to **SB 3** was germane.

The Speaker ruled that House Floor Amendment No. 1 to **SB 3** was germane.

On the roll call the vote was: **Yeas 46, Nays 47**. (See March 20, 2000 roll call on the adoption of House Floor Amendment No. 1 to **SB 3**-Appendix.)

House Floor Amendment No. 1 to **SB 3** was defeated.

Representative Lindsay moved that **SB 3** be passed.

Representative Bratcher moved that **SB 3** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 53, Nays 39**. (See March 20, 2000 roll call on the motion that **SB 3** be laid on the Clerk's Desk-Appendix.)

The motion that **SB 3** be laid on the Clerk's Desk was adopted.

SB 36, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of House Committee Amendment No. 1 to **SB 36**. Defeated.

Representative Lindsay moved that **SB 36** be passed.

Representative Collins moved to reconsider the vote by which the House Committee Amendment No. 1 to **SB 36** was defeated.

On the roll call the vote was: **Yeas 63, Nays 28**. (See March 20, 2000 roll call on the motion to reconsider the vote by which the House Committee Amendment No. 1 to **SB 36** was defeated-Appendix.)

The motion to reconsider the vote by which the House Committee Amendment No. 1 to **SB 36** was defeated was adopted.

Representative Lindsay moved the adoption of House Committee Amendment No. 1 to **SB 36**. Adopted.

Representative Lindsay moved that **SB 36,** as amended, be passed.

On the roll call the vote was: **Yeas 40, Nays 53**. (See March 20, 2000 roll call on **SB 36** - Appendix.)

SB 36, as amended, was defeated.

SB 65 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 65** be passed.

On the roll call the vote was: **Yeas 98, Nays 1**. (See March 20 , 2000 roll call on **SB 65** - Appendix.)

SB 65 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 65** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 107, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved the adoption of the House Committee Substitute to **SB 107**. Agreed.

Representative Branham moved that **SB 107**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20, 2000 roll call on **SB 107** - Appendix.)

SB 107, by way of House Committee Substitute, was passed and the title agreed to.

Representative Branham moved that the vote by which **SB 107**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved the adoption of the House Committee Substitute to **SB 51**. Agreed.

Representative Branham moved that **SB 51**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 20, 2000 roll call on **SB 51** - Appendix.)

SB 51, by way of House Committee Substitute, was passed and the title agreed to.

Representative Branham moved that the vote by which **SB 51**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 100** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20 , 2000 roll call on **SB 100** - Appendix.)

SB 100 was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 100** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 111, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the House Committee Substitute to **SB 111**. Agreed.

Representative Stein moved that **SB 111**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20, 2000 roll call on **SB 111** - Appendix.)

SB 111, by way of House Committee Substitute, was passed and the title agreed to.

Representative Stein moved that the vote by which **SB 111**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 174 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **SB 174** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 20 , 2000 roll call on **SB 174** - Appendix.)

SB 174 was passed and the title agreed to.

Representative Hoover moved that the vote by which **SB 174** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 207, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of the House Committee Substitute to **SB 207**. Agreed.

Representative Lee moved that **SB 207**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 20, 2000 roll call on **SB 207** - Appendix.)

SB 207, by way of House Committee Substitute, was passed and the title agreed to.

Representative Lee moved that the vote by which **SB 207**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 272 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 272** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 20 , 2000 roll call on **SB 272** - Appendix.)

SB 272 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 272** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 128, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the House Committee Substitute to **SB 128**. Agreed.

Representative Marzian moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 128**. Agreed.

Representative Marzian moved that **SB 128**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 20, 2000 roll call on **SB 128** - Appendix.)

SB 128, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 128**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **SCR 61** be adopted.

On the roll call the vote was: **Yeas 95**, **Nays 2**. (See March 20, 2000 roll call on **SCR 61** - Appendix.)

SCR 61 was adopted.

Representative Feeley moved that the vote by which **SCR 61** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 53 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved that **SB 53** be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 20 , 2000 roll call on **SB 53** - Appendix.)

SB 53 was passed and the title agreed to.

Representative Branham moved that the vote by which **SB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 125 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 125** be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 20 , 2000 roll call on **SB 125** - Appendix.)

SB 125 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 125** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 143 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **SB 143** be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 20 , 2000 roll call on **SB 143** - Appendix.)

SB 143 was passed and the title agreed to.

Representative Stein moved that the vote by which **SB 143** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 236 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **SB 236** be passed.

On the roll call the vote was: **Yeas 92**, **Nays 0**. (See March 20 , 2000 roll call on **SB 236** - Appendix.)

SB 236 was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 236** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 265 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 265** be passed.

On the roll call the vote was: **Yeas 93, Nays 3**. (See March 20 , 2000 roll call on **SB 265** - Appendix.)

SB 265 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 265** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 140 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved that **HR 140** be adopted.

On the roll call the vote was: **Yeas 75, Nays 2.** (See March 20, 2000 roll call on **HR 140** - Appendix.)

HR 140 was adopted.

Representative Bather moved that the vote by which **HR 140** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 240 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 240** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 20 , 2000 roll call on **SB 240** - Appendix.)

SB 240 was passed and the title agreed to.

Representative Collins moved that the vote by which **SB 240** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **SB 349, SB 313, SB 305**, and **SB 165**. Agreed.

Representative Stumbo moved that **SB 123** be recommitted to the Committee on Agricultural and Small Business. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 123**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 168, by Representative Crenshaw: A RESOLUTION recognizing and adjourning the House of Representatives in honor of Chester A. Higgins, Sr.

HR 169, by Representative Riner: A RESOLUTION urging the Department of Public Health in the Cabinet for Health Services to develop programs that encourage breast-feeding.

Motions, Petitions, and Communications (Continued)

Representative Burch moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Burch moved the adoption of the following **HR 167**:

HR 167, A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Foster Parents.

WHEREAS, foster parents in the Commonwealth of Kentucky serve many abused and neglected children yearly; and

WHEREAS, foster parents are the most precious resource for these children who can no longer reside in their own homes; and

WHEREAS, the future destinies of foster children largely depend upon the love and kindness of foster parents; and

WHEREAS, children represent love, hope, and peace, and the interests of childhood and youth are the interests of mankind;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body fully recognizes and appreciates foster parents for their integral service to children. They introduce sunlight and love into the lives of our abused and neglected children.

Section 2. The House of Representatives congratulates foster parents for the patience, kindly sympathies, and affection they bestow upon our future citizens of the Commonwealth.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Kentucky's foster parents.

There being no objection **HR 167** was adopted.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Transportation: **SB 313**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 21, 2000. Agreed.

Representative Stewart moved the adoption of the following **Legislative Citation No. 124**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Elbert Bargo and respectfully joins with Representative Jim Stewart in expressing its deepest sympathy to his beloved wife, Margaret Broughton Bargo; his cherished daughter, Sandra Adkins; and all who share in the great loss on the passing of this fine and esteemed citizen. A valued member of the Turkey Creek community, Elbert Bargo faithfully attended the Dripping Springs Baptist Church, was widely known and respected as a mule and horse trader, and labored as an invaluable employee of the Delta Gas Company for thirty years before his retirement. Honored and remembered on this day for his many and generous contributions to his family, his friends, and his community, Elbert Bargo will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, this twentieth day of March, in the year two thousand.

Legislative Citation No. 124 was adopted without objection.

Representative Treesh moved that Floor Amendments No. 1, 2, and 3 to **SB 98** be withdrawn. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that his vote be changed from "yea" to "nay" on **SB 265**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "nay" on **SB 91**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that his vote be changed from "yea" to "nay" on **SB 265**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that he be recorded as voting "yea" on **SB 91**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **SB 36**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cox moved that he be recorded as voting "nay" on **HB 611**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cox moved that he be recorded as voting "yea" on **HB 366**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "nay" to "yea" on **SCR 61**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **HB 538, HB 919,** and **HB 537**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 202, HB 792, HB 563, HB 807, HB 533, HB 919, HB 537,** and **SJR 57**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that his vote be changed from "yea" to "nay" on **SB 265**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to the House Committee Substitute to **SB 170**, by Representative Bruce:

On page 3, line 8, by deleting the bracket and strikethrough; and

On page 3, line 9, by removing the strikethrough from "(f)" and inserting after "(f)" the following: "***Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development*** [".

Floor Amendment No. 1 to the House Committee Substitute to **SB 289**, by Representative Bruce:

On page 1, line 13, after "*provided.*" by inserting "***This subtitle does not apply to Lloyd's Plan insurers as defined in KRS 304.3-040 licensed in accordance with Subtitle 28 of KRS Chapter 304, unless the Lloyd's Plan insurer petitions the commissioner requesting that this subtitle be applicable to the Lloyd's Plan insurer.***".

Floor Amendment No. 4 to **SB 74**, by Representative Webb:

On page 3, after line 26 by inserting the following:

"Section 2. KRS 97.050 is amended to read as follows:

(1) Whenever the legislative body of any city or the fiscal court of any county or one (1) of them in conjunction with a school district establishes a supervised park, playground and recreation system as provided in KRS 97.010 to KRS 97.040, or jointly, as provided in KRS 97.035, the legislative body or the fiscal court or other authority participating may appropriate money out of the general fund of the city or county or other authority for the purpose of expanding, equipping, maintaining and operating such park, playground, or recreation center.

(2) Whenever the legislative body of any city or the fiscal court of any county or one (1) of them in conjunction with a school district establishes a supervised park, playground and recreation system as provided in KRS 97.010 to KRS 97.040, or jointly, as provided in KRS 97.035, the legislative body or the fiscal court may adopt ordinances granting ad valorem tax credits for property holders donating land for the establishment or expansion of parks, playgrounds, or recreation facilities. If a fiscal court or legislative body passes an ordinance granting tax credits for the donation of land, the ordinance shall:

- ***(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated; and***
- ***(b) Allow the property holder to utilize this tax credit until the credit is exhausted.***

Section 3. KRS 97.140 is amended to read as follows:

(1) Any city that establishes a recreational project may purchase solely from the funds provided under the authority of KRS 97.100 to 97.240~~[, or may acquire by gift, devise, bequest or grant,]~~ lands, structures, rights of way, franchises, easements or other interests in land necessary for the establishment and maintenance of the project, upon such terms, prices, and

considerations as the city considers reasonable.

(2) Any city that establishes a recreational project may acquire by gift, devise, bequest, or grant, lands, structures, rights-of-way, franchises, easements, or other interests in land necessary for the establishment and maintenance of the project. The legislative body of the city may adopt ordinances granting ad valorem tax credits for property holders donating land for the establishment of a project. If the legislative body passes an ordinance granting tax credits for the donation of land, the ordinance shall:

(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated; and

(b) Allow the property holder to utilize this tax credit until the credit is exhausted.

(3) Title to all property acquired for such purposes shall be taken in the name of the city.

Section 4. KRS 148.066 is amended to read as follows:

(1) The Department of Parks shall accept for the state any real estate or personal property conveyed or dedicated for public park purposes to the state or to the department or to its predecessor, but the department is not compelled to accept any such property if it deems it unwise to do so.

(2) The legislative body of any county or city may adopt ordinances granting ad valorem tax credits for property holders donating land or other personal property for the establishment or expansion of a state park. If the legislative body passes an ordinance granting tax credits for the donation of land or other personal property, the ordinance shall:

(a) Grant the property holder a tax credit equal to twenty percent (20%) of the full, fair market value of the land donated and the certified appraised value of the personal property; and

(b) Allow the property holder to utilize this tax credit until the credit is exhausted.

(3)~~[(2)]~~The title to all property that has been, or shall be, acquired by the Commonwealth or its agency for public park purposes shall be vested in the Commonwealth. Such property shall be managed, maintained, and improved by the Department of Parks for public park purposes.".

Floor Amendment No. 3 to **SB 113**, by Representative Sims:

On page 1, at the end of the first WHEREAS clause after the word "class;" by inserting the following:

"and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Horse Cave, in Hart County, is such to justify its being classified as a city of the fourth class;" and

On page 1, after line 2 by inserting the following:

"Section 2. The City of Horse Cave, in Hart County, is transferred from the fifth to the fourth class of cities.".

Floor Amendment No. 1 to **SB 102**, by Representative R. Adams:

On page 1, after line 23, by inserting the following:

"Section 2. KRS 186.045 is amended to read as follows:

(1) Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the security interest was noted on the certificate of title. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the title lien statement. The county clerk shall enter the assignment of the perfected security interest into the automated vehicle information system. For this service the county clerk shall collect a fee pursuant to KRS 64.012.

(2) Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 to 355.9-507 or similar proceedings, the secured party shall, within ten (10) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1)***(b)***. Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing such security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on such title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien

statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(3) Upon presentation of the owner's title showing such security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If such record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If such record of termination has not been entered into the automated system, in no case shall the county clerk of the county other than where the termination statement was delivered, make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(4) Whenever any secured party repossesses a vehicle titled in this state, for which a security interest is in existence at the time of repossession, and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, must be shown on the title issued by the clerk unless the prior secured party has discharged such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(5) Whenever any vehicle brought into this state is required to be titled in this state and such vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(6) The fees provided for in this section are in addition to any state fee provided for by law.

(7) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(8) The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180 must be obtained from the clerk by the owner of the vehicle.

(9) Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly titled herein under KRS Chapter 186A and the security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 3. KRS 186.990 is amended to read as follows:

(1) *(a)* Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, ~~[186.045(2),]~~186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180, 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

(b) Any person who violates the provisions of Section 2 of this Act shall pay a fine of two hundred fifty dollars ($250) for the first offense and not less than two hundred fifty dollars ($250) and not more than two thousand five hundred dollars ($2,500) for each subsequent offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss

the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.".

Floor Amendment No. 4 to **SB 247**, by Representative Stumbo:

On Page 21, after line 7, by inserting,

"Section 17. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city ***and the governing body of the county containing the city*** is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each[~~ city~~] budget period at ***a***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the ***local government***[~~city~~] for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city ***and county***. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, ***except:***

(1) [~~but~~] A credit against ***a regulatory license***[~~such~~] fee ***in a city*** shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070***; and***

(2) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.".

Floor Amendment No. 2 to **SB 287**, by Representative Stumbo:

On page 6, after line 11 by adding the following:

"Section 2. KRS 161.011 is amended to read as follows:

(1) (a) "Classified employee" means an employee of a local district who is not required to have certification for his position as provided in KRS 161.020;[~~ and~~]

(b) "Seniority" means total continuous months of service in the local school district, including all approved paid and unpaid leave***; and***

(c) "Equivalent diploma" means the high school equivalency diploma issued after successfully completing the General Educational Development tests.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or ***an equivalent diploma***[~~GED certificate~~], or he shows progress toward obtaining ***an equivalent diploma***[~~a GED~~]. To show progress toward obtaining ***an equivalent diploma***[~~a GED~~], a person shall be enrolled in ***an equivalent diploma***[~~a GED~~] program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult and Technical Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not

have a high school diploma or ***an equivalent diploma***[~~a GED certificate~~] to enroll in a program to obtain ***an equivalent diploma***[~~a GED~~].

(5) ***For purposes of subsection (3) of this section, persons who worked for a school district on a contract basis prior to July 13, 1990, shall be considered as being employed by the district during the time they provided contractual services and shall not be required to have a high school diploma or an equivalent diploma if later hired by the district.***

(6) Local districts shall enter into written contracts with classified employees. Contracts with classified employees shall be renewed annually except contracts with the following employees:

(a) An employee who has not completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract will not be renewed for the subsequent school year. Upon written request by the employee, within ten (10) days of the receipt of the notice of nonrenewal, the superintendent shall provide, in a timely manner, written reasons for the nonrenewal.

(b) An employee who has completed four (4) years of continuous active service, upon written notice which is provided or mailed to the employee by the superintendent, no later than April 30, that the contract is not being renewed due to one (1) or more of the reasons described in subsection (6) of this section. Upon written request within ten (10) days of the receipt of the notice of nonrenewal, the employee shall be provided with a specific and complete written statement of the grounds upon which the nonrenewal is based. The employee shall have ten (10) days to respond in writing to the grounds for nonrenewal.

(7)[~~(6)~~]Nothing in this section shall prevent a superintendent from terminating a classified employee for incompetency, neglect of duty, insubordination, inefficiency, misconduct, immorality, or other reasonable grounds which are specifically contained in board policy.

(8)[~~(7)~~]The superintendent shall have full authority to make a reduction in force due to reductions in funding, enrollment, or changes in the district or school boundaries, or other compelling reasons as determined by the superintendent.

(a) When a reduction of force is necessary, the superintendent shall, within each job classification affected, reduce classified employees on the basis of seniority and qualifications with those employees who have less than four (4) years of continuous active service being reduced first.

(b) If it becomes necessary to reduce employees who have more than four (4) years of continuous active service, the superintendent shall make reductions based upon seniority and qualifications within each job classification affected.

(c) Employees with more than four (4) years of continuous active service shall have the right of recall positions if positions become available for which they are qualified. Recall shall be done according to seniority with restoration of primary benefits, including all accumulated sick leave and appropriate rank and step on the current salary schedule based on the total number of years of service in the district.

(9)[~~(8)~~]Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(10)[~~(9)~~] Local school boards shall maintain a registry of all vacant classified employee positions that is available for public inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(11)[~~(10)~~] The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.".

Floor Amendment No. 3 to the House Committee Substitute to **SB 279**, by Representative Burch:

On page 16, after line 9, by inserting the following:

"Section 20. KRS 304.17A-410 is amended to read as follows:

As used in KRS 304.17A-400 to 304.17A-480, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses,

reserves, or other overhead costs;

(3) "Guaranteed acceptance program plan claims" or "alternative underwriting mechanism losses" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(4) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(5) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in KRS 304.17A-460;

(6) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(7) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(8) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(9) "Other coverage" means coverage under any of the following:

(a) A group plan;

(b) [~~Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1995c et seq.;~~

~~(c)~~]A state plan under Title XIX of the Social Security Act, or any successor program;

(c)[~~(d)~~]Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

(d)[~~(e)~~]Any other health insurance coverage which is not individual health insurance coverage;

(10) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(11) "Program" means the Kentucky Guaranteed Acceptance Program;

(12) "Refund" means an amount to be paid to an insurer by the program;

(13) "Stop-loss carrier" means any person providing health insurance stop-loss coverage;

(14) "Stop-loss premiums" means amounts paid to purchase health insurance stop-loss coverage; and

(15) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

Section 11. KRS 304.17A-210 is amended to read as follows:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months***, including an individual eligible for coverage under Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1396 et seq.),*** shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's two (2) health benefit plans, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plans sold so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plans made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plans so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under KRS 304.17A-420(3)(a) to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5) (a) No insurer, who was not offering health benefit plans in Kentucky on January 1, 1998, shall be required to accept annually under this section individuals who, in the aggregate, would cause the insurer to have a total number of new insureds with high-cost conditions as defined in KRS 304.17A-005(19) or which exceed an insurer's underwriting guidelines as approved by the commissioner under KRS 304.17A-430(3)(b) per year that is more than one-half of one per cent (0.5%) of the total number of individuals insured by the insurer under individual health benefits plans issued or issued for delivery in the Commonwealth, calculated as of the immediately preceding thirty-first day of December.

(b) The commissioner shall, by administrative regulation, establish equitable enrollment limits for the first twelve (12) months, and any remaining portion of the calendar year after the expiration of that twelve (12) month period, in which an insurer first begins doing business in the individual market. These limits shall be based on the insurer's quarterly enrollment in health benefit plans offered in the individual market in the Commonwealth.

(c) An officer of the insurer shall certify to the department when it has met the enrollment limit established in this subsection. Upon providing this certification, the insurer shall be relieved of its guaranteed issue requirement under this section for the remainder of the calendar year.

(d) If all insurers that are required to offer coverage on a guaranteed-issue basis meet the enrollment limit established in this subsection prior to the end of the calendar year, then all such insurers shall again accept individuals for guaranteed issue coverage, subject to the enrollment limit established in this subsection.

(e) If certification of the enrollment limit would leave any county in the Commonwealth without an insurer to provide coverage in the individual market, the commissioner may require any insurer that meets the criteria in KRS 304.17A-420(1) to continue to offer coverage in that county. The commissioner shall proportionally increase the enrollment limit under this subsection for all other insurers that do not meet the criteria of KRS 304.17A-420(1).

(6) An insurer that elects to use the alternative underwriting mechanism under KRS 304.17A-430(3) shall offer to those insureds who are subject to the alternative underwriting mechanism the standard plan and the two (2) plans offered by the insurer with the largest premium volume for the last calendar year.

(7) For the purposes of this section and KRS 304.17A-250, insurers whose activities in the individual market are limited to the renewal of health benefit plans issued prior to July 15, 1995, shall not be deemed to be doing business in the individual market.

(8) Subsections (1) to (7) of this section shall not apply to a health benefit plan offered by an insurer if the coverage is made available in the individual market only through one (1) or more bona fide associations."

Floor Amendment No. 2 to the House Committee Substitute to **SB 152**, by Representative D. Butler:

On page 8, line 14, by eliminating "*(1)*"; and

On page 8, lines 18 through 23, by eliminating the lines in their entirety.

Floor Amendment No. 3 to the House Committee Substitute to **SB 152**, by Representative D. Butler:

On page 9, line 26, after the word "***officers***" by deleting the words "***and the***"; and

On page 9, line 27, by deleting the words "***members of the commission***"; and

On page 10, line 5, after the word "***thereon***", by inserting "***, or the enforcement of laws relating to the protection of persons or property on premises licensed by the commission***".

Announcements

The following meeting was announced:

Reception in the Speaker's Office, March 21, 2000, 1:30 p.m., honoring Norbert Blume.

The following meeting was canceled:

Tourism, Development, and Energy, March 21, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 21, 2000.

The motion that the House adjourn until 2:00 p.m., March 21, 2000, was adopted by voice vote.

MARCH 21, 2000

FIFTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Doctor Herman Bowers, Trinity Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 20, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative L. Clark moved that the rules be suspended to grant floor privileges to Norbert Blume and to act upon a Legislative Citation. Agreed.

Representative L. Clark moved the adoption of the following **Legislative Citation No. 126**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Norbert Blume for the many and vital contributions he made to both the citizens of the 43rd District and the Commonwealth of Kentucky during a remarkable career as a member of the Kentucky House of Representatives. A distinguished graduate of the University of Louisville who served in the U.S. Navy and as a past president of the Teamsters, Local 783, this esteemed gentleman began his legislative career in Frankfort in 1964 and, that same year, was recognized as both the Louisville Defender's Kentuckian of the Year and the Outstanding Freshman Legislator. Also recognized as the Outstanding Legislator in 1966, he went on to lend great poise and outstanding leadership abilities as Speaker Pro Tem in 1970, as Speaker of the House from 1972-1974 and continued to serve as a legislative agent upon his departure from his elected duties. Inasmuch as this dedicated public servant devoted a great portion of his life to working towards the betterment of his community and this Commonwealth and, as a result, has earned the well-deserved admiration and respect of his peers, colleagues and constituents, the members of this honorable body are delighted to join with Representative Larry Clark and Representative Paul Bather in commending Norbert Blume for the vital and lasting contributions he has made in this most worthwhile endeavor and in extending to him best wishes for continued success and good fortune. Done in Frankfort, this twenty-first day of March, in the year two thousand.

Legislative Citation No. 126 was adopted without objection.

Introduction of Resolutions

HR 170, by Representative Burch: A RESOLUTION requesting a study of best practices in the provision of time-limited cash assistance and access to supportive services, including education and training, to low-income families by family support workers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Economic Development: **SB 216**

Health and Welfare: **HR 166, HR 169**

Judiciary: **SB 209, SB 314**

State Government: **SB 15**

House Floor: **HR 167, HR 168**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **SB 335**

Report of Committees

The Committee on Rules reported that **SB 300** has been posted for passage in the Orders of the Day for March 22, 2000.

The Committee on Appropriations and Revenue reported **SB 86, SB 165, SB 192, SB 305,** with House Committee Amendments attached thereto, and **SB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 86, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.472 is amended to read as follows:

(1) "Prescription medicine" shall mean and include:

(a) Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use which is prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; and

(b) Medical oxygen when purchased by the patient for private use.

(2) "Prosthetic devices and physical aids" for the purpose of this section shall mean and include artificial devices prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs, ***wheelchair repair and replacement parts,*** and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, ***urostomy supplies, ileostomy supplies,*** insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics.

(3) The terms "sale at retail," "retail sale," "use," "storage" and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of prescription medicine, prosthetic devices and physical aids.

Section 2. The provisions of this Act shall apply to sales made on or after August 1, 2000.

SB 165, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;~~[and]~~

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner***;***

(d) "Recapture period" means, for qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from the date the equipment is purchased; or, for qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from the date the equipment was purchased; and

(e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The

amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the Revenue Cabinet on or before ***the first day of the seventh month***[~~July 1 of the year~~] following the ***close of the taxable***[~~calendar~~] year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Revenue Cabinet may require. The Revenue Cabinet shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

(4) Except as provided in subsection (6) of this section, if a taxpayer who receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit already taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.

(5) The tax credit for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be redetermined by multiplying the total tax credit allowable under subsection (2) of this section as follows.

(a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:

1. One (1) year or less after being purchased, multiply by zero (0).

2. Between one (1) year and two (2) years after being purchased, multiply by twenty percent (20%).

3. Between two (2) and three (3) years after being purchased, multiply by forty percent (40%).

4. Between three (3) and four (4) years after being purchased, multiply by sixty percent (60%).

5. Between four (4) and five (5) years after being purchased, multiply by eighty percent (80%).

(b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:

1. One (1) year or less after being purchased, multiply by zero (0).

2. Between one (1) year and two (2) years after being purchased, multiply by thirty-three percent (33%)

3. Between two (2) and three (3) years after being purchased, multiply by sixty-seven percent (67%).

(6) Subsections (4) and (5) of this section shall not apply to transfers due to death, transfers due merely to a change in business ownership or organization as long as the equipment continues to be used in recycling or composting, or transactions to which Internal Revenue Code Section 381(a) applies.

SB 192, AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

(1) State Property and Buildings Commission;
(2) Kentucky Pollution Abatement Authority;
(3) Kentucky Savings Bond Authority;
(4) County Officials Compensation Board;
(5) Kentucky Turnpike Authority;
(6) State Investment Commission;
(7) Kentucky Housing Corporation;[~~ and~~]
(8) Governmental Services Center***; and***
(9) Kentucky River Authority.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky River Authority is created to perform the essential governmental functions and public purposes set out in KRS 151.700 to 151.730. The authority shall be a public corporation and independent governmental agency and instrumentality of the state. The responsibilities of the authority shall be managed and implemented by a board of directors as set out in Section 3 of this Act.

Section 3. KRS 151.710 is amended to read as follows:

(1) The Governor shall appoint members to the Kentucky River Authority, created to carry out the essential public purpose of protecting the health and welfare of the people of the Commonwealth as declared in KRS 151.700.

(2) The Governor shall appoint the ***secretaries***[~~secretary~~] of the ***Finance and Administration Cabinet and the*** Natural Resources and Environmental Protection Cabinet and ten (10) other persons as the members of the authority. The ***secretaries***[~~secretary~~] may designate ***alternates***[~~an alternate~~]. Of the ten (10) persons, one (1) shall be a registered engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county judge/executive. The mayor and the county judge/executive shall be officers from counties which obtain the major portion of their water supply from the Kentucky River. Five (5) members shall reside in a county adjacent to the main stem of the Kentucky River, one (1) of the five (5) members residing in counties adjacent to locks and dams one (1) through four (4); and one (1) member shall reside in a county adjacent to either the North Fork, Middle Fork, or South Fork of the Kentucky River. ***Of the twelve (12) members only one (1) may be an employee of the Natural Resources and Environmental Protection Cabinet.***

(3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years, and three (3) for terms of four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the authority for a term of four (4) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Each member shall receive as compensation one hundred dollars ($100) per day for attending a meeting of the authority.

(5) Any member who misses three (3) consecutive meetings of the authority shall be deemed to have vacated the office. The authority shall declare the office vacant and the office shall be filled as provided by subsections (2) and (3) of this section.

(6) The authority annually shall elect one (1) of its members as chairman. A quorum for the transaction of business shall be six (6) members, and a majority of the members present at a meeting may take action on any matter legally before the authority.

(7) Members shall be paid their necessary travel expenses incurred in attending meetings and in the performance of their official duties, in addition to the per diem compensation of one hundred dollars ($100).

(8) The authority shall meet at least quarterly, and may meet upon the call of the chairman.

(9) The chairman shall be paid necessary travel expenses and a one hundred dollar ($100) per diem compensation for conducting official business of the authority.

(10) The authority shall be attached for administrative purposes to the ***Finance and Administration***[~~Natural Resources and Environmental Protection~~] Cabinet, and the cabinet shall provide the necessary personnel to provide administrative services for the authority.

(11) The necessary travel expenses and per diem compensation of the members of the authority in attending meetings and in the performance of their official duties shall be paid by the authority.

(12) The authority shall promulgate administrative regulations necessary to carry out its duties, and shall report annually to the Governor and the Legislative Research Commission.

Section 4. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;

(5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) Issue revenue bonds in accordance with KRS 151.730;

(7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;

(8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section ***and Sections 5 and 6 of this Act***, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;

(11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority ***after consultation with the Natural Resources and Environmental Protection Cabinet,*** shall develop a unified long-range water resource plan for the basin. ***The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years.*** The authority shall conduct a public hearing on the plan ***prior to its adoption and amend the plan as appropriate based on the comments received. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151***[~~, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown~~]. A drought response plan for the basin shall be developed by the authority ***and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151***, and this plan shall be implemented for the basin upon the direction of the authority;

(12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;

(15) Coordinate the Kentucky River basin water resources activities among state agencies;

(16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;

(17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;

(18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and

(19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky River Authority shall undertake a continuing study of the water available within the Kentucky River and the water needs within the Kentucky River Basin. The study shall focus on necessary capital construction to maintain or increase water availability within the Kentucky River, including bringing existing facilities up to acceptable standards or replacing existing facilities where required.

(2) The Kentucky River Authority shall on a biennial basis provide the General Assembly with an estimate of the cost of maintaining or increasing the water available within the Kentucky River in order to meet the water supply needs of the citizens within the Kentucky River Basin.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the 2000-2002 biennium and each biennium thereafter, the authority shall submit to the General Assembly a six (6) year program of preconstruction and construction activities to maintain or increase water available within the Kentucky River. The program shall include a two (2) year construction component that shall be implemented as authorized by the General Assembly in the authority's biennial budget and a four (4) year preconstruction component that shall advise the General Assembly of the consistency of ongoing and long-term planning with the construction activities funded by the General Assembly.

(2) The program shall be developed by considering, at a minimum, the following factors:

(a) The population to be served by the available water;

(b) *The social, economic, and environmental impact of program elements;*

(c) *The condition of existing facilities critical to water availability;*

(d) *The cost of maintaining, improving, replacing, or removing facilities; and*

(e) *The dependence of communities within the river basin on specific Kentucky River dam pools or other sources of water.*

(3) *The program shall include a four (4) year planning document setting out preconstruction activities that include planning and design and an environmental analysis of projects to maintain or increase water available within the Kentucky River and geotechnical and stability evaluations of the Kentucky River locks and dams.*

(4) *The authority shall provide to the General Assembly a long-range planning document consisting of twenty (20) years for water supply projects being considered by the authority.*

(5) *The authority shall be responsible for the execution of each six (6) year program as approved and authorized in the budget by the General Assembly and shall report any anticipated deviations from the authorized construction funding or preconstruction program to the Interim Joint Committee on Appropriations and Revenue.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

By July 1 of each year preceding the convening of the General Assembly in regular session, the authority shall provide the projected six (6) year construction and preconstruction program to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue.

Section 8. KRS 151.723 is amended to read as follows:

(1) The rate of the water use fees collected by the authority shall be set for each year of the biennium based upon a total amount of funds necessary to carry out only those functions, projects, and expenses authorized by the General Assembly in the authority's biennial budget.

(2) At the time the authority submits its budget to the Governor's Office of Policy and Management, it shall certify to the General Assembly[~~ and the secretary of the Revenue Cabinet~~] the total amount of water use reported for the preceding biennium by users subject to the water use fees. At least thirty (30) days prior to the effective date of the authority's budget, the *authority*[~~secretary of the Revenue Cabinet~~] shall establish a rate for each water use fee based upon an amount of water use projected for each year of the biennium from the amount reported, calculated to generate the amount of funds necessary to carry out the functions, projects, and expenses which have been authorized by the General Assembly *to be funded by the fees*. The rate shall be an amount for each one thousand (1,000) gallons of water use and shall be effective for at least one (1) year.

(3) The authority shall define by administrative regulation those uses of the Kentucky River or the waters of the Kentucky River basin subject to a water use fee. Water use fees shall not apply to facilities using water for agricultural purposes. The authority shall collect the fees on a quarterly basis and pay the collected fees into the State Treasury to the credit of a restricted fund for use by the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

At the time a water utility requests a state agency to take action required to allow the transfer between water utilities of drinking water within or into the watershed of the Kentucky River basin, the water utility shall notify the authority of the request that has been made for state agency action. The authority shall review the request and comment on the requested transfer to the state agency within the time period for the review by the state agency.

Section 10. No later than September 30, 2000, the authority shall report to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue on implementation of those plan elements authorized during the 2000 Regular Session of the General Assembly.

SB 305, AN ACT relating to critical access hospitals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.380 is amended to read as follows:

(1) The licensure category of critical access hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a critical access hospital without first obtaining a license from the Cabinet for Health Services. An acute-care hospital converting to a critical access hospital shall not require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a critical access hospital.

(3) *Except as provided in subsection (4) of this section,* only a hospital licensed as a general acute-care hospital may be relicensed as a critical access hospital if all of the following criteria are met:

(a) The hospital is:

1. Located more than a thirty-five (35) mile drive from another hospital or other health facility;

2. Where the terrain is mountainous or only secondary roads are available, the hospital is located more than a fifteen (15) mile drive; or

3. The hospital is certified by the secretary as a necessary provider of health care services to area residents;

(b)[~~ The hospital is a nonprofit or public hospital;~~

~~(c)~~] The hospital is not in a county which is part of a standard metropolitan statistical area ***or is designated by the state as a rural provider***;

(c)[~~(d)~~]Except as provided in paragraph *(d)*[~~(e)~~] of this subsection, the hospital provides not more than fifteen (15) acute care inpatient beds for providing inpatient care for a period ***that does*** not[~~ to~~] exceed***, as determined on an annual, average basis,*** ninety-six (96) hours[~~ unless:~~

~~1. Patient transfer to another hospital is precluded because of inclement weather or other emergency conditions; or~~

~~2. A peer review organization or an equivalent entity has waived the ninety-six (96) hour restriction on a case-by-case basis~~];

(d)[~~(e)~~]If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds and the number of beds used at any time for acute inpatient services does not exceed fifteen (15) beds. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.

(4) ***The secretary for health services may designate a facility as a critical access hospital if the facility:***

(a) Was a hospital that ceased operations on or after ten (10) years prior to the effective date of this Act; or

(b) Was a hospital that was converted to a licensed primary care center, rural health clinic, ambulatory health center, or other type of licensed health clinic or health center and, as of the effective date of that conversion, meets the criteria for licensure as a critical access hospital under this subsection or subsection (3) of this section.

(5) A critical access hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and

(b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, offsite contractual basis.

(6)[~~(5)~~]A critical access hospital may provide the following services:

(a) Swing beds or a distinct unit of the hospital which is a nursing facility in accordance with KRS Chapter 216B and subject to approval under certificate of need;

(b) Surgery;

(c) Normal obstetrics;

(d) Primary care;

(e) Adult day health care;

(f) Respite care;

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis;

(h) Ambulatory care;

(i) Home health services which may be established upon obtaining a certificate of need; and

(j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.

(7)[~~(6)~~]The following staffing plan shall apply to a critical access hospital:

(a) The hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the federal Social Security Act to a hospital located in a rural area except that:

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis;

2. The hospital need not otherwise staff the facility except when an inpatient is present;

(b) Physician assistants and nurse practitioners may provide inpatient care within the limits of their statutory scope of practice and with oversight by a physician who is not required to be on-site at the hospital.

(8)[~~(7)~~]A critical access hospital shall have a quality assessment and performance improvement program and procedures for review of utilization of services.

(9)[~~(8)~~]A critical access hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the critical access hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(10)[~~(9)~~] If the critical access hospital is part of a rural health network, the hospital shall have the following:

(a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and

(b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan.

(11)[~~(10)~~] The Cabinet for Health Services ***and any insurer or managed care program for Medicaid recipients that contracts with the Department for Medicaid Services for the receipt of Federal Social Security Act Title XIX funds*** shall provide for reimbursement of services provided to Medicaid recipients in a critical access hospital ***at rates that are at least equal to those established by the Federal Health Care Financing Administration for Medicare reimbursement to a critical access hospital***.

(12)[~~(11)~~] The Cabinet for Health Services shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

The House Committee Amendment No. 1 to **SB 305** is as follows:

On page 1, line 20, after "which" insert "***has the largest county population***" and place brackets around and strike through "is part"; and

On page 5. after line 7, insert the following:

"Section 2. Whereas the regulation of critical access hospitals is vital to the health care needs of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The House Committee Amendment No. 2 Title to **SB 305** is as follows:

Amend the title to read as follows: "AN ACT relating to critical access hospitals and declaring an emergency.".

SB 336, AN ACT relating to intangible property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, [~~shares of stock, ~~]notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a

pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. ~~[Shares of capital stock of any affiliated company as defined in subsection (3) of this section and]~~Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from ***any affiliated***~~[the]~~ company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand,~~[shares of stock,]~~ notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process

materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 2. KRS 132.060 is amended to read as follows:

(1) Every broker maintaining an office or place of business in this state for the conduct of the business of buying or selling[~~ stocks,~~] bonds or other securities***, excluding stocks and mutual funds,*** for customers in margin transactions shall report to the Revenue Cabinet as of January 1 of each year, the aggregate amount, with an accurate description and the market value, of all such securities then held or carried by such broker for each office or place of business in the state for resident customers, which report shall be filed with the cabinet on or before March 1 of each year.

(2) If the broker has doubt as to whether or not a customer is a resident of this state, he may, on or before making the required report, call upon the customer to submit an affidavit upon a form to be prescribed by the cabinet, stating the facts relied upon to establish his nonresidence. The broker may then report to the cabinet the name and post office address of such customer and the information as to securities held or carried for him, and file therewith the customer's affidavit. The broker shall then be relieved from making any further report and from collecting or paying any taxes for the customer.

(3) If the customer fails or refuses to furnish the affidavit required by the broker, the broker shall report and pay the tax for the customer, who shall then have no claim against the broker because of the payment of the tax charged to the customer's account.

Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured[~~, and shares of stock~~]. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;

(18) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;

(19) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs; and

(20) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs.

Section 4. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any financial institution, as defined in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of each year. Money in hand shall be listed, assessed, and valued as of January 1 of each year.~~[Shares of stock,]~~ Notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the cabinet between January 1 and May 15 in each year, except as otherwise prescribed by law. The filing date for an individual's intangible property tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the cabinet, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the cabinet may physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period

provided for in KRS 134.470, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated. The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290. Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the cabinet within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the cabinet. The cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the cabinet, shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

Section 5. KRS 132.240 is amended to read as follows:

Individuals or corporations listing property for taxation with the property valuation administrator or the county board of supervisors shall reveal the face value of all intangibles listed, except[~~ stocks,~~] cash or bank deposits, on the form prescribed by the Revenue Cabinet for listing intangible property. A reduction of fifty cents ($0.50) shall be made from the property valuation administrator's compensation for each list he accepts upon which there is an omission to reveal the face value of any intangible property listed, except[~~ stocks,~~] cash or bank deposits.

Section 6. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes,[~~ stocks~~] or bonds or other intangible or tangible personal property that were listed with the property valuation administrator or with the Revenue Cabinet as provided by KRS 132.220 may be reopened by the Revenue Cabinet within five (5) years after the date as of which they were assessed, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of[~~ stocks and~~] bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the cabinet finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within thirty (30) days thereafter protest to the cabinet and offer evidence to show that no increase should be made. After the cabinet has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the cabinet shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 7. KRS 132.520 is amended to read as follows:

(1) Every bank, trust company, combined bank and trust company, and real estate title insurance company doing business in this state shall, by February 1 of each year, unless the time is extended by the Revenue Cabinet, file with the cabinet a report sworn to by its president, vice president, treasurer, or cashier, showing as of January 1 of each year:

(a) A list of the notes, bonds, or other evidences of indebtedness secured by mortgage or other recorded instrument standing in its name of record that it has assigned or transferred during the preceding year without making a transfer of record, the amount of each, and the name and address of the person to whom each was assigned. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfers of the securities during that year need not be furnished.

(b) A list of the mortgages standing in its name on January 1 that were assigned of record to it during the preceding year with its knowledge and consent, where it has not become the absolute owner of the debt secured thereby, showing the amount of each such mortgage and the name and address of each assignor. Any mortgage assigned to it during any year and paid and released of record prior to January 1 need not be included in the report.

(c) A list of all debenture bonds, collateral trust bonds, notes, certificates, and other evidences of indebtedness issued, assigned, or transferred by it during the preceding year that are secured by and represent the beneficial interest in [~~stocks,~~]lien notes, bonds, or mortgages standing in its name of record, the amount of each such evidence of indebtedness, and the name and address of the person to whom each was assigned or transferred. Where the name and address of the transferee holding the securities on January 1 of any year is given, any previous transfer or assignment of the securities need not be furnished.

(d) A list of all[~~ stocks,~~] lien notes, bonds, mortgages, certificates, and other evidences of indebtedness that it has assigned or transferred to any person as security for the issuing of any debenture or collateral trust bonds, the amount of each, and the name and address of the person to whom each was assigned.

(2) The reports required under paragraphs (a) and (b) of subsection (1) of this section need not include sales or pledges from one (1) bank, trust company, or combined bank and trust company to another bank or company, or notes or obligations secured by any recorded instrument executed to a bank, trust company, or a combined bank and trust company in which the obligations secured by the instrument are divided among estates or accounts in charge of the bank or company and regularly and properly entered on its records. The provisions of this section do not apply to mortgages made by corporations to trustees to secure bond issues made by them in the regular course of business, except as provided in paragraph (c) of subsection (1) of this section.

(3) The information thus obtained shall be communicated by the cabinet to the property valuation administrator and the board of assessment appeals of the respective counties in which the true owners of the debts reside.

Section 8. KRS 136.030 is amended to read as follows:

(1) [~~(a) The individual stockholders of a corporation shall not be required to list their shares for ad valorem taxation so long as the corporation pays taxes to the State of Kentucky on at least seventy-five percent (75%) of its total property, wherever located. Bonds and obligations of the United States of America and its possessions and bonds and obligations of the State of Kentucky, its instrumentalities, and its political subdivisions and their instrumentalities shall not be considered in the computation of the total property of the corporation, wherever located, nor in the computation of the amount of property upon which the corporation pays ad valorem taxes to the State of Kentucky. In order to obtain this exemption, the stockholder shall furnish satisfactory proof to the Revenue Cabinet that at least seventy-five percent (75%) of the total property of the corporation as hereinabove specified is taxed in the State of Kentucky.~~

~~(b) A corporation which has its "principal office", as defined in KRS 271B.1-400, in this state during the taxable period may elect, in order to satisfy the provisions of paragraph (a) of this subsection, to include in the computation of the total property of the corporation, wherever located, and in the computation of the amount of property upon which the corporation pays ad valorem taxes to the State of Kentucky, out-of-state business property formerly owned by a subsidiary corporation, the shares of which had been treated as stock of an "affiliated company," as defined in KRS 132.020, held by the electing corporation, when the electing corporation pays an ad valorem tax for state purposes for the taxable period on the value of the out-of-state business property at the rate provided for in KRS 132.020(2).~~

~~(2)~~]Every corporation organized under the laws of this state, or doing business in this state,[~~ whose stock is liable to assessment and taxation under subsection (1) of this section,~~] and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the Revenue Cabinet signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its[~~ shares of stock and~~] outstanding bonds as of January 1 previous thereto, and also the transfer of any of its[~~ stocks or~~] bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(2)[~~(3)~~]Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the Revenue Cabinet the following information:

(a) Name and address of all Kentucky residents whose stocks, bonds, or other securities***, excluding stocks and mutual funds,*** are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid[~~ for if the stock certificates have not been sent to the Kentucky residents~~];

(b) Name of company by whom[~~ stocks,~~] bonds[~~, options, index futures,~~] or other securities were issued;

(c) [~~Number of shares and type of each stock, ~~]Interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

(d) Market value as of the previous January 1.

[~~(4) For purposes of determining the tax status, under subsection (1) of this section, of the shareholders of a holding company with subsidiaries subject to the provisions of KRS 136.120(1), the property of the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be property of the holding company, and ad valorem taxes paid to the State of Kentucky by the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be paid by the holding company.~~]

SECTION 9. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Shares of stock shall be exempt from state and local ad valorem tax.

The Committee on State Government reported **HR 106, HJR 145,** with Committee Substitute and Committee Amendment attached thereto, **SB 87, SB 134, SB 248,** with House Committee Substitute and House Committee Amendment attached thereto, **SB 280,** with House Committee Substitute attached thereto, and **SB 315,** with House Committee Substitute and House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 106, A RESOLUTION urging all banks operating in the Commonwealth of Kentucky to waive any fees for cashing any check in payment for jury service in this Commonwealth.

WHEREAS, it is the civic duty of citizens of the Commonwealth to serve as jurors when called; and

WHEREAS, our civil and criminal justice systems depend on the participation of citizens sitting as jurors in civil and criminal actions in our courts; and

WHEREAS, persons who serve as jurors must interrupt their work lives, and in many cases their personal lives, and are subject to a contempt order if they do not appear as directed; and

WHEREAS, jurors in Circuit and District Courts are paid $12.50 per day for jury service; and

WHEREAS, some banks are charging jurors a fee to cash checks issued to them in payment for their jury service; and

WHEREAS, banks and bank employees derive the same benefit as all citizens of the Commonwealth from a system of justice that provides a jury trial for all who demand to be judged by fellow citizens; and

WHEREAS, banks should show their support for our system of justice by waiving fees for cashing any check in payment for jury service in this Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That all banks operating in the Commonwealth of Kentucky are urged to waive any fees for cashing any check in payment for jury service in this Commonwealth.

Section 2. That the Commissioner of the Department of Financial Institutions is requested to act to make this resolution known to banks authorized to do business in the Commonwealth of Kentucky.

Section 3. That a copy of this resolution be submitted to the Commissioner of the Department of Financial Institutions.

HJR 145, A JOINT RESOLUTION directing the Governor to purchase sufficient postage and deposit a sufficient amount of state agency mail in smaller Kentucky Post Offices in an effort to qualify the maximum number as full eight-hour-per-day Post Offices.

WHEREAS, there are numerous small United States Post Offices scattered across the Commonwealth that are unable to provide services that their communities deserve, since they are open only two, four, or six hours a day; and

WHEREAS, the postal workers staffing these offices are woefully underpaid due to the inability of the Post Office to reach the Postal Service threshold required for reclassification as a full-time, eight-hour-a-day Post Office; and

WHEREAS, these Post Offices often serve as the cultural and economic hubs of their communities; and

WHEREAS, economic development efforts would be aided by having the services of a full-time Post Office in every community; and

WHEREAS, the Commonwealth has the ability, by distributing a fraction of its purchases of postage and the mailing of letters and packages in a manner that routes a portion of state agency mail to smaller Post Offices, to bring these Post Offices up to a category which enables them to be full-time Post Offices;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Governor is directed to support the smaller Post Offices of the Commonwealth by taking appropriate action to purchase postage and deposit mail from state agencies in Post Offices that are open less than eight hours per day, making them eligible to be reclassified as Post Offices that are open for eight hours per day. These efforts shall begin in areas with the lowest per capita income in the Commonwealth.

Section 2. The Governor or his representative shall make biannual reports to the Interim Joint Committee on State Government on the progress that has been made toward making all of Kentucky's Post Offices eight-hour-per-day Post Offices.

The Committee Substitute No. 1 to **HJR 145** is as follows:

HJR 145, A JOINT RESOLUTION directing the Governor to purchase sufficient postage and deposit a sufficient amount of state agency mail in smaller Kentucky Post Offices in an effort to qualify the maximum number as full eight-hour-per-day Post Offices.

WHEREAS, there are numerous small United States Post Offices scattered across the Commonwealth that are unable to provide services that their communities deserve, since they are open only two, four, or six hours a day; and

WHEREAS, the postal workers staffing these offices are woefully underpaid due to the inability of the Post Office to reach the Postal Service threshold required for reclassification as a full-time, eight-hour-a-day Post Office; and

WHEREAS, these Post Offices often serve as the cultural and economic hubs of their communities; and

WHEREAS, economic development efforts would be aided by having the services of a full-time Post Office in every community; and

WHEREAS, the Commonwealth has the ability, by distributing a fraction of its purchases of postage and the mailing of letters and packages in a manner that routes a portion of state agency mail to smaller Post Offices, to bring these Post Offices up to a category which enables them to be full-time Post Offices;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Division of Postal Services is urged to support the smaller Post Offices of the Commonwealth by taking appropriate action to purchase postage and deposit mail from state agencies in Post Offices that are open less than eight hours per day, making them eligible to be reclassified as Post Offices that are open for eight hours per day. These efforts shall begin in areas with the lowest per capita income in the Commonwealth.

Section 2. The Division of Postal Services is urged to report to the Interim Joint Committee on State Government on the progress that has been made toward making all of Kentucky's Post Offices eight-hour-per-day Post Offices.

The Committee Amendment No. 1 Title to **HJR 145** is as follows:

By amending the title to read as follows:

"A RESOLUTION urging the Division of Postal Services to purchase sufficient postage and deposit a sufficient amount of state agency mail in smaller Kentucky Post Offices in an effort to qualify the maximum number as full eight-hour-per-day Post Offices.".

SB 87, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of

months of service credit during the three (3) year period is less than ***twenty-four (24)***[~~twenty-eight (28)~~], one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System, or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current, may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year; and

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543.

Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) For a member who is not employed in a hazardous position, as provided in Section 3 of this Act, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in Section 3 of this Act, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no

cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 3. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, ***eight percent (8%)***[~~seven percent (7%)~~] of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the

system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) ~~[Except for the employee contribution by members of the Kentucky Employees Retirement System,]~~The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.~~[The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).]~~

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 4. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work.

Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than ***twenty-four (24)***[~~twenty-eight (28)~~], one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.

Section 5. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of reemployment, except as provided in subsection (7) of this section. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The

member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:

(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and

(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.

(8) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(9) Any former recipient of a disability retirement allowance from the Kentucky Retirement Systems who had at least two hundred forty (240) months of service credit and whose disability retirement allowance was terminated September 1, 1998, who is reemployed as of the effective date of this Act shall be treated under the provisions of subsections (1) to (4) of this section, except that the maximum permissible earnings as used in subsection (1) shall be the maximum permissible earnings under the Federal Social Security Act for calendar year 1998.

SB 134, AN ACT relating to retirement boards in urban-counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.530 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***twelve (12)***[~~eleven (11)~~] members, consisting of the mayor, the commissioner of public safety, the commissioner of finance, the director of personnel, ***two (2)***[~~one (1)~~] retired ***members***[~~member~~] of the fund, the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing ***the***[~~such~~] department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) The retired fund ***members***[~~member~~] shall be selected by retired fund members by ballot to serve[~~ a~~] two (2) year ***terms***[~~term~~]. ***One (1) retired fund member shall be a retired fire department member, and the other shall be a retired police department member.*** Retired fund members ***of a department*** shall submit the names of at least three (3) nominees ***from their department*** to the pension board not less than three (3) months before the term of office is due to expire. ***The retired members of both departments shall have the right to vote for nominees from either department.*** For the term beginning October 15, ***2000***[~~1990~~], names of nominees ***from each department*** shall be submitted to the pension board by no later than ***August 15, 2000***[~~July 15, 1990~~]. The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former ***department***[~~position~~] of each of the[~~ three (3)~~] candidates. ***The candidates shall be grouped together by departments for voting purposes and retired fund members shall be instructed to vote for one (1) member from each***

department. Any ballot marked with more than one (1) vote per department shall be disqualified and not counted. The retiree from either department receiving the most votes shall serve a two (2) year term. The retiree from the other department receiving the most votes shall serve an initial term of one (1) year. Subsequently, retirees elected in alternate years from each department shall serve two (2) years. In the event of vacancy of an elected retired fund member of the board, the retiree receiving the next largest number of votes from the department for which the vacancy exists shall fill the vacancy until the next election for a representative of that retiree's department. Retired fund members shall vote for one (1) candidate ***from each department*** by marking a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board.~~[In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.~~

~~(3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban-county form of government shall retain his office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.]~~

SB 248, AN ACT relating to retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.705 is amended to read as follows:

(1) ~~[Upon the death of a retired member of]~~The Kentucky Employees Retirement System, County Employees Retirement System, ***and***~~[or]~~ State Police Retirement System ***shall maintain a life insurance policy for members of the retirement system*** who had a minimum of forty-eight (48) months of service, ***in a minimum amount***~~[a death benefit]~~ of five thousand dollars ($5,000)***, which*** shall be paid ***over to the member's estate or designated beneficiaries upon the member's death***.~~[Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.~~

~~(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit.]~~ The beneficiary for ***this policy of life insurance***~~[the death benefit]~~ may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent ***beneficiary***~~[death benefit]~~ designation.

The House Committee Substitute No. 1 to **SB 248** is as follows:

SB 248, AN ACT relating to retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.705 is amended to read as follows:

(1) ~~[Upon the death of a retired member of]~~The Kentucky Employees Retirement System, County Employees Retirement System, ***and***~~[or]~~ State Police Retirement System ***shall maintain life insurance coverage for each retired member of the retirement system,*** who had a minimum of forty-eight (48) months of service, ***for a minimum amount***~~[a death benefit]~~ of five thousand dollars ($5,000)***, which*** shall be paid ***over to the member's estate or a named beneficiary upon the member's death***.~~[Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.]~~

(2) ~~[The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit.]~~The beneficiary for ***this life insurance policy***~~[the death benefit]~~ may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent ***beneficiary***~~[death benefit]~~ designation.

Section 2. KRS 18A.205 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary, may procure from one (1) or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employees. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for state employees, except that the procuring is permissive. ***Any policy offered to state employees under this section shall include state or federal disability payments in***

any calculation of the annual income of a prospective insured.

(2) The term "state employee," for purposes of KRS 18A.205 to 18A.215, shall mean a person who is regularly employed by any department, board, agency, or branch of state government~~[, and]~~ who is also a contributing member of any one (1) of the retirement systems administered by the state***, or any volunteer firefighter totally disabled in the line of duty***; provided, however, that any federally funded time-limited employee may receive insurance coverage.

(3) The term "premiums," for the purposes of KRS 18A.205 to 18A.225, shall mean premiums to be paid on any type of insurance authorized under KRS 18A.205 to 18A.225.

The House Committee Amendment No. 1 Title to **SB 248** is as follows:

On page 1, by amending the title to read as follows: "AN ACT relating to benefits."

SB 280, AN ACT relating to the Office of Education Accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission ***and shall be advised and monitored by the Education Assessment and Accountability Review Subcommittee***.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken ***and reports issued*** by the Kentucky Board of Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476.

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education no later than October 1, 1991. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the ***Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be forwarded to the*** Governor, the Legislative Research Commission, and the Kentucky Board of Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting,~~[contracting for, or]~~ requesting***, or upon approval of the Legislative Research Commission contracting for*** periodic program and fiscal audits as necessary. The Office of Education Accountability ***shall monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education, including but not limited to the annual fiscal conditions of grants, categorical programs, and other educational initiatives set forth by the General Assembly***~~[may request an audit from the State Committee for School District Audits as established in KRS 156.265]~~.

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the Kentucky Board of Education, and make recommendations for ***legislative*** action to the ***Education Assessment and Accountability Review Subcommittee. Upon***

approval of the subcommittee, recommendations for legislative action shall be forwarded to the Legislative Research Commission. ***The Office of Education Accountability shall submit to the subcommittee, for each of its regular meetings, a report that summarizes investigative activity initiated pursuant to this subparagraph. The subcommittee may consider each report as it determines and in its discretion. Each report, and the consideration thereof by the subcommittee, shall be exempt from the open records and open meetings requirements contained in KRS Chapter 61.***

5. ***Under the direction of the Education Assessment and Accountability Review Subcommittee,*** conduct studies,~~[and]~~ analyze, ***verify and validate the state assessment program through other external indicators of academic progress including, but not limited to American College Test scores, Scholastic Assessment Test scores, National Assessment of Educational Progress scores, Preliminary Scholastic Assessment Test scores, Advanced Placement Program participation, standardized test scores, college remediation rates, retention and attendance rates, dropout rates and additional*** available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the ***Education Assessment and Accountability Review Subcommittee as directed by the subcommittee. Upon approval of the subcommittee, the reports shall be forwarded to the*** Legislative Research Commission~~[as directed by the Commission]~~.

7. ***Make periodic reports to the Legislative Research Commission as may be directed by the Commission.***

8. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the ***Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be submitted to the*** Governor, the Legislative Research Commission, and the Kentucky Board of Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which if accurate may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

Section 2. KRS 158.647 is amended to read as follows:

(1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members, no more than five (5) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in KRS 158.6453, 158.6455, and 158.782.

(3) ***The subcommittee shall advise and monitor the Office of Education Accountability in the performance of its duties according to the provisions of Section 1 of this Act.***

(4) The subcommittee shall meet at a time and place as the chair may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.

(5)[~~(4)~~]Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.

The House Committee Substitute No. 1 to **SB 280** is as follows:

SB 280, AN ACT relating to the Office of Education Accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission ***and shall be advised and monitored by the Education Assessment and Accountability Review Subcommittee***.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken ***and reports issued*** by the Kentucky Board of Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476.

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education no later than October 1, 1991. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the ***Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be forwarded to the*** Governor, the Legislative Research Commission, and the Kentucky Board of Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting,[~~ contracting for, or~~] requesting***, or upon approval of the Legislative Research Commission contracting for*** periodic program and fiscal audits as necessary. ***Upon and under the direction of the Education Assessment and Accountability Review Subcommittee,*** the Office of Education Accountability ***shall monitor and verify the accuracy of reports of the Department of Education and the Kentucky Board of Education, including but not limited to the annual fiscal conditions of grants, categorical programs, and other educational initiatives set forth by the General Assembly***[~~may request an audit from the State Committee for School District Audits as established in KRS 156.265~~].

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the Kentucky Board of Education, and make recommendations for ***legislative*** action to the ***Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, recommendations for legislative action shall be forwarded to the*** Legislative Research Commission. ***The Office of Education Accountability shall submit to the subcommittee, for each of its regular meetings, a report that summarizes investigative activity initiated pursuant to this subparagraph. The subcommittee may consider each report as it determines and in its discretion. Each report, and the consideration thereof by the subcommittee, shall be exempt from the open records and open meetings requirements contained in KRS Chapter 61.***

5. ***Under the direction of the Education Assessment and Accountability Review Subcommittee,*** conduct studies,~~[and]~~ analyze***, verify and validate the state assessment program through other external indicators of academic progress including, but not limited to American College Test scores, Scholastic Assessment Test scores, National Assessment of Educational Progress scores, Preliminary Scholastic Assessment Test scores, Advanced Placement Program participation, standardized test scores, college remediation rates, retention and attendance rates, dropout rates and additional*** available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the ***Education Assessment and Accountability Review Subcommittee as directed by the subcommittee. Upon approval of the subcommittee, the reports shall be forwarded to the*** Legislative Research Commission~~[as directed by the Commission]~~.

7. ***Make periodic reports to the Legislative Research Commission as may be directed by the Commission.***

8. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the ***Education Assessment and Accountability Review Subcommittee. Upon approval of the subcommittee, the annual report shall be submitted to the*** Governor, the Legislative Research Commission, and the Kentucky Board of Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which if accurate may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential during the course of an ongoing investigation or until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

Section 2. KRS 158.647 is amended to read as follows:

(1) A permanent subcommittee of the Legislative Research Commission to be known as the Education Assessment and Accountability Review Subcommittee is hereby created. The subcommittee shall be composed of eight (8) members, no more than five (5) of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall review administrative regulations and advise the Kentucky Board of Education concerning the implementation of the state system of assessment and accountability, established in KRS 158.6453, 158.6455, and 158.782.

(3) ***The subcommittee shall advise and monitor the Office of Education Accountability in the performance of its duties according to the provisions of Section 1 of this Act.***

(4) The subcommittee shall meet at a time and place as the chair may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090.

(5)~~[(4)]~~Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090.

SB 315, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.935 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows.

The General Assembly finds and declares that:

(1) The establishment of the ***position***[~~Office~~] of the Chief Information Officer as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

 (a) Ensure the effective application of information technology on state business operations;

 (b) Ensure the quality, security, and integrity of state business operations; and

 (c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;[~~ and~~]

(9) ***Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;***

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the chief information officer of powers and authority conferred by ***Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act***[~~KRS 61.935 to 61.938~~] shall be deemed and held to be the performance of essential governmental functions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Communications" or "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems, and includes all facilities and equipment performing these functions;

(2) "Geographic information system" or "GIS" means a computerized database management system for the capture, storage, retrieval, analysis, and display of spatial or locationally defined data;

(3) "Information resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel;

(4) "Information technology" means data processing and telecommunications hardware, software, services, supplies, facilities, maintenance, and training that are used to support information processing and telecommunications systems to include geographic information systems; and

(5) "Project" means a program to provide information technologies support to functions within an executive branch state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the Office of the Governor an agency of state government known as the Governor's Office for Technology.

(2) The Governor's Office for Technology shall be headed by the chief information officer for the Commonwealth established in Section 6 of this Act.

(3) The Governor's Office for Technology shall consist of the following six (6) executive offices, each headed by an executive director:

(a) Office of Geographic Information;
(b) Office of Human Resource Management and Development;
(c) Office of Administrative Services, consisting of the:
1. Division of Financial and Business Management; and
2. Division of Asset Management;
(d) Office of Policy and Customer Relations, consisting of the:
1. Division of Planning and Architecture;
2. Division of Relationship Management; and
3. Division of Information Technology Training;
(e) Office of Infrastructure Service, consisting of the:
1. Division of End User Support;
2. Division of Security Services;
3. Division of Computing Services; and
4. Division of Communication Services; and
(f) Office of Consulting and Project Management, consisting of the:
1. Division of Centers of Expertise;
2. Division of Project Office and Integration;
3. Division of Human Services Systems;
4. Division of Financial Systems;
5. Division of Transportation Systems; and
6. Division of Workforce Development and General Government Systems.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The roles and duties of the Governor's Office for Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The Governor's Office for Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the chief information officer finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Governor's Office for Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable;

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the chief information officer or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) To accomplish the work of the Governor's Office for Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the Governor's Office for Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the Governor's Office for Technology.

(3) The information, technology, personnel, agency resources and confidential records of Kentucky Retirement Systems and Kentucky Teachers' Retirement Systems are excluded from the provisions of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 20, 22, 23, and 24 of this Act and shall not be under the authority of the Governor's Office for Technology.

Section 6. KRS 61.936 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded

commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.[~~ For purposes of this section, unless the context requires otherwise, "information technology" and "information resources" shall have the same meaning as in KRS 61.942.~~]

(2)[~~(1)~~]The chief information officer shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(3)[~~(2)~~]The chief information officer shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the chief information officer shall include but not be limited to:

(a)[~~ Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;~~

~~(b)~~] Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

[~~(c) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;~~

~~(d) Overseeing and managing strategic information technology directions, standards, and architecture;~~]

(b)[~~(e)~~]Integrating information technology and resources plans with agency business plans;

[~~(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;~~]

(c)[~~(g)~~]Overseeing shared Commonwealth information technology resources and services;

(d)[~~(h)~~]Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

[~~(i) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;~~]

(e)[~~(j)~~] Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f)[~~(k)~~] Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g)[~~(l)~~] Establishing performance measurement and benchmarking policies and procedures;

[~~(m) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;~~]

(h)[~~(n)~~] Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the governor and the General Assembly;

[~~(o) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;~~] and

(i)[~~(p)~~] Managing the *Governor's Office for Technology*[~~Office of the Chief Information Officer~~] and its budget.

SECTION 7. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the chief information officer for the Commonwealth on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The chief information officer for the Commonwealth.

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 8. KRS 61.958 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council~~[, referred to in this section and KRS 61.959 as the "council," to the Kentucky Information Resources Management Commission]~~ to advise the ***chief information officer***~~[Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission]~~ on issues ***relating***~~[as they relate]~~ to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Health Services and Families and Children or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The ***chief information officer***~~[commissioner of the Department of Information Systems]~~ or ***her or*** his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;

16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 9. KRS 61.959 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) The ***Geographic Information Advisory*** Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the ***chief information officer***~~[Kentucky Information Resources Management Commission]~~;

(e) Overseeing the development of the geographic information systems training and education plan;

(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;

(g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;

(h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and

(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The Office of Geographic Information shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 10. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.

(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of General Counsel.
(g) Office of Public Affairs.
(h) Office of Personnel Management.
(i) Office of Minority Affairs.
(j) Office of Environmental Affairs.
(k) Office of Policy and Budget.
5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g)[~~Department of Information Systems.~~
~~(h)~~] State Property and Buildings Commission.
(h)[~~(i)~~] Kentucky Pollution Abatement Authority.
(i)[~~(j)~~] Kentucky Savings Bond Authority.
(j)[~~(k)~~] Deferred Compensation Systems.
(k)[~~(l)~~] Office of Equal Employment Opportunity Contract Compliance.
(l)[~~(m)~~] Office of Capital Plaza Operations.

(m)[~~(n)~~] County Officials Compensation Board.
(n)[~~(o)~~] Kentucky Employees Retirement Systems.
(o)[~~(p)~~]Commonwealth Credit Union.
(p)[~~(q)~~]State Investment Commission.
(q)[~~(r)~~] Kentucky Housing Corporation.
(r)[~~(s)~~] Governmental Services Center.
(s)[~~(t)~~] Kentucky Local Correctional Facilities Construction Authority.
(t)[~~(u)~~] Kentucky Turnpike Authority.
(u)[~~(v)~~] Historic Properties Advisory Commission.
(v)[~~(w)~~] Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor-Management Relations and Mediation.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.

(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy and Budget.
(q) Office of Personnel Services.
(r) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
(a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. ***The Governor's Office for Technology***~~[Office of the Chief Information Officer]~~.

Section 11. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) ***Governor's Office for Technology***~~[Office of the Chief Information Officer]~~; and
(10) Office of Coal Marketing and Export.

Section 12. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the

"system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set ***by the Governor's Office for Technology***~~[out in KRS 61.940 to 61.953]~~ are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 13. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Budget, the Office of Financial Management and Economic Analysis, the Office of Capital Plaza Operations, and the Office of the Controller, each of which offices shall be headed by an executive director, the Department for Administration, ***and*** the Department for Facilities Management,~~[and the Department of Information Systems]~~ each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 14. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with

Commonwealth standards contained within the information technology architecture, as provided ***by the Governor's Office for Technology***~~[in KRS 61.950]~~.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 15. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The ***Governor's Office for Technology***~~[Department of Information Systems]~~ may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***~~[Department of Information Systems']~~ operating account.

(7) All receipts which accrue as the result of the ***Governor's Office for Technology's***~~[Department of Information Systems']~~ providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***~~[Department of Information Systems']~~ operating account.

Section 16. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.760 to 45.810:

(a) "Committee" means the Capital Projects and Bond Oversight Committee.

(b) "Capital construction item" means:

1. The construction, reconstruction, acquisition, and structural maintenance of buildings;
2. The installation of utility services, including roads and sewers;
3. The acquisition or improvement of real property;
4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;
5. The acquisition of any building to be occupied by any:
    a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;
    b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and
    c. Institution of higher education.

(c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:

1. Any entity listed in paragraph (b)5. of this subsection;
2. The legislative branch; or
3. The judicial branch when leased from a private sector landlord.

(d) "Equipment" means:

1. Any major item of equipment, including aircraft;
2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "System" means any computer or telecommunications system, as defined in an administrative regulation which shall be promulgated by the ***Governor's Office for Technology***[~~Kentucky Information Resources Management Commission~~].

(f) "Capital projects" means, regardless of the source of cash or other consideration:

1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration;
2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars ($200,000);
3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars ($200,000) on an annual basis;
4. Any item of equipment estimated to cost one hundred thousand dollars ($100,000) or more in cash or other consideration;
5. Any lease of an item of movable equipment if the annual cost of the lease is one hundred thousand dollars ($100,000) or more or if the total cost of the lease-purchase or lease with an option to purchase is one hundred thousand dollars ($100,000) or more; and
6. Any system estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration.

(g) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or
2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or
3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(i) "Capital construction funds" means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.

(j) "Entity head" means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.

(2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:

(a) The state government;

(b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;

(c) A municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and

(d) Institutions of higher education.

(3) KRS 45.760 to 45.810 shall not apply to:

(a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and

(b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Section 17. KRS 61.8715 is amended to read as follows:

The General Assembly finds an essential relationship between the intent of this chapter and that of KRS 171.410 to 171.740, dealing with the management of public records, and of ***Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act***~~[KRS 61.940 to 61.957]~~, dealing with the coordination of strategic planning for computerized information systems in state government; and that to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes. The General Assembly further recognizes that while all government agency records are public records for the purpose of their management, not all these records are required to be open to public access, as defined in this chapter, some being exempt under KRS 61.878.

Section 18. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or their designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator, appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629, the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the ***Governor's Office for Technology***~~[Finance and~~

~~Administration Cabinet]~~ for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 19. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the ***chief information officer***~~[Commissioner of the Department of Information Systems]~~, the Secretary of the Education, Arts, and Humanities Cabinet, and the president of the Council on Postsecondary Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 20. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education, Arts, and Humanities Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management or his designee, the ***chief information officer***~~[commissioner of the Department of Information Systems]~~ or ***her or*** his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens-at-large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 21. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The ***Governor's Office for Technology***[~~Department of Information Systems~~] shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 22. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the ***Governor's Office for Technology***[~~Department of Information Systems~~] for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, the department shall immediately notify the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the department or the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

(a) The person presents proof of insurance to the department or county clerk and pays the reinstatement fee required by KRS 186.180;

(b) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

(c) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

(d) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section. The notice that the department gives to the county attorney in accordance with subsection (2) of this section shall include a certified copy of the person's driving record which shall include:

(a) The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

(b) A dated notice that the department sent to the person requiring the person to present proof of insurance to the department or the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with subsection (2) of this section.

(4) The certified copies sent by the department described in subsection (3) of this section, shall be prima facie evidence of a violation of KRS 304.39-080.

(5) If the insured provides proof of insurance to the department or the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

Section 23. KRS 186A.285 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the ***chief information officer***~~[commissioner of the Department of Information Systems]~~, connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the ***chief information officer***~~[commissioner of the Department of Information Systems]~~.

Section 24. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Social Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department for Social Services, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Social Insurance, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those

communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Governor's Office for Technology***~~[Kentucky Information Resources Management Commission]~~, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;
(b) Reasons for placement disruptions;
(c) Length of time between removal and establishment of permanency;
(d) Reabuse or reoffense rates;
(e) Fatality rates;
(f) Injury and hospitalization rates;
(g) Health care provision rates;
(h) Educational achievement rates;
(i) Multiple placement rates;
(j) Sibling placement rates;
(k) Ethnicity matching rates;
(l) Family maintenance and preservation rate; and
(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 25. The following KRS sections are repealed:

42.029 Department of Information Systems -- Commissioner and other personnel -- Divisions -- Duties -- Delegation of authority.
42.640 Definitions for KRS 42.650.
61.937 Authority to enter into memoranda of agreement and contracts.
61.938 Office of the Chief Information Officer -- Duties -- Authority for administrative regulations.
61.940 Legislative declarations.
61.942 Definitions for KRS 61.940 to 61.953.
61.945 Kentucky Information Resources Management Commission.
61.948 Powers of commission.
61.950 Meetings -- Roles and duties -- Administrative Regulations.
61.951 Office for the Kentucky Information Resources Management Commission -- Executive director.
61.953 Contents of five-year statewide information resources management plan.
61.954 Construction of KRS 61.940 to 61.953 with respect to judicial and legislative branches.
61.955 Communications Advisory Council.

Section 26. The General Assembly confirms Executive Order 99-1359, dated October 6, 1999, to the extent it is not otherwise confirmed or superseded by this Act; and Executive Order 99-1360, dated October 6, 1999, which transfers twenty-seven (27) positions and all records, files, and equipment directly associated with these positions, from the Office of Technology Services within the Cabinet for Families and Children to the Governor's Office for Technology.

The House Committee Substitute No. 1 to **SB 315** is as follows:

SB 315, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.935 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows.

The General Assembly finds and declares that:

(1) The establishment of the ***position***~~[Office]~~ of the Chief Information Officer as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the

industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;~~[and]~~

(9) *Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;*

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the chief information officer of powers and authority conferred by *Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act*~~[KRS 61.935 to 61.938]~~ shall be deemed and held to be the performance of essential governmental functions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Communications" or "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems, and includes all facilities and equipment performing these functions;

(2) "Geographic information system" or "GIS" means a computerized database management system for the capture, storage, retrieval, analysis, and display of spatial or locationally defined data;

(3) "Information resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel;

(4) "Information technology" means data processing and telecommunications hardware, software, services, supplies, facilities, maintenance, and training that are used to support information processing and telecommunications systems to include geographic information systems; and

(5) "Project" means a program to provide information technologies support to functions within an executive branch state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the Office of the Governor an agency of state government known as the Governor's Office for Technology.

(2) The Governor's Office for Technology shall be headed by the chief information officer for the Commonwealth established in Section 6 of this Act.

(3) The Governor's Office for Technology shall consist of the following six (6) executive offices, each headed by an executive director:

(a) Office of Geographic Information;

(b) Office of Human Resource Management and Development;

(c) Office of Administrative Services, consisting of the:

   1. Division of Financial and Business Management; and

   2. Division of Asset Management;

(d) Office of Policy and Customer Relations, consisting of the:

   1. Division of Planning and Architecture;

   2. Division of Relationship Management; and

   3. Division of Information Technology Training;

(e) Office of Infrastructure Service, consisting of the:

   1. Division of End User Support;

   2. Division of Security Services;

   3. Division of Computing Services; and

   4. Division of Communication Services; and

(f) Office of Consulting and Project Management, consisting of the:

   1. Division of Centers of Expertise;

   2. Division of Project Office and Integration;

   3. Division of Human Services Systems;

   4. Division of Financial Systems;

   5. Division of Transportation Systems; and

   6. Division of Workforce Development and General Government Systems.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The roles and duties of the Governor's Office for Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;

(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;

(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The Governor's Office for Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the chief information officer finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Governor's Office for Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable;

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the chief information officer or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) To accomplish the work of the Governor's Office for Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the Governor's Office for Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the Governor's Office for Technology.

(3) The information, technology, personnel, agency resources and confidential records of Kentucky Retirement Systems and Kentucky Teachers' Retirement Systems are excluded from the provisions of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 20, 22, 23, and 24 of this Act and shall not be under the authority of the Governor's Office for Technology.

Section 6. KRS 61.936 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.[~~ For purposes of this section, unless the context requires otherwise, "information technology" and "information resources" shall have the same meaning as in KRS 61.942.~~]

(2)[~~(1)~~]The chief information officer shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(3)[~~(2)~~]The chief information officer shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the chief information officer shall include but not be limited to:

(a)~~[Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;~~

~~(b)]~~ Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

~~[(c) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;~~

~~(d) Overseeing and managing strategic information technology directions, standards, and architecture;]~~

(b)~~[(e)]~~Integrating information technology and resources plans with agency business plans;

~~[(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;]~~

(c)~~[(g)]~~Overseeing shared Commonwealth information technology resources and services;

(d)~~[(h)]~~Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

~~[(i) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;]~~

(e)~~[(j)]~~ Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f)~~[(k)]~~ Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g)~~[(l)]~~ Establishing performance measurement and benchmarking policies and procedures;

~~[(m) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;]~~

(h)~~[(n)]~~ Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the governor and the General Assembly;

~~[(o) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;]~~ and

(i)~~[(p)]~~ Managing the *Governor's Office for Technology*~~[Office of the Chief Information Officer]~~ and its budget.

SECTION 7. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the chief information officer for the Commonwealth on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative

Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The chief information officer for the Commonwealth.

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 8. KRS 61.958 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council~~[, referred to in this section and KRS 61.959 as the "council," to the Kentucky Information Resources Management Commission]~~ to advise the ***chief information officer***~~[Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission]~~ on issues ***relating***~~[as they relate]~~ to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Health Services and Families and Children or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The ***chief information officer***~~[commissioner of the Department of Information Systems]~~ or ***her or*** his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 9. KRS 61.959 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) The ***Geographic Information Advisory*** Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the ***chief information officer***~~[Kentucky Information Resources Management Commission]~~;

(e) Overseeing the development of the geographic information systems training and education plan;

(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;

(g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;

(h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and

(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The Office of Geographic Information shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 10. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service..
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.

(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of General Counsel.
(g) Office of Public Affairs.
(h) Office of Personnel Management.
(i) Office of Minority Affairs.
(j) Office of Environmental Affairs.
(k) Office of Policy and Budget.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.

(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g)[~~ Department of Information Systems.~~
~~(h)~~] State Property and Buildings Commission.
(h)[~~(i)~~] Kentucky Pollution Abatement Authority.
(i)[~~(j)~~] Kentucky Savings Bond Authority.
(j)[~~(k)~~] Deferred Compensation Systems.
(k)[~~(l)~~] Office of Equal Employment Opportunity Contract Compliance.
(l)[~~(m)~~] Office of Capital Plaza Operations.
(m)[~~(n)~~] County Officials Compensation Board.
(n)[~~(o)~~] Kentucky Employees Retirement Systems.
(o)[~~(p)~~]Commonwealth Credit Union.
(p)[~~(q)~~]State Investment Commission.
(q)[~~(r)~~] Kentucky Housing Corporation.
(r)[~~(s)~~] Governmental Services Center.
(s)[~~(t)~~] Kentucky Local Correctional Facilities Construction Authority.

(t)[~~(u)~~] Kentucky Turnpike Authority.

(u)[~~(v)~~] Historic Properties Advisory Commission.

(v)[~~(w)~~] Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor-Management Relations and Mediation.

(m) Office of General Counsel.

(n) Workers' Compensation Funding Commission.

(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:

(a) Department of Property Valuation.

(b) Department of Tax Administration.

(c) Office of Financial and Administrative Services.

(d) Department of Law.

(e) Department of Information Technology.

(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:

(a) Department of Travel.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult Education and Literacy.

(b) Department for Technical Education.

(c) Department of Vocational Rehabilitation.

(d) Department for the Blind.

(e) Department for Employment Services.

(f) State Board for Adult and Technical Education.

(g) Governor's Council on Vocational Education.

(h) The State Board for Proprietary Education.

(i) The Foundation for Adult Education.

(j) The Kentucky Job Training Coordinating Council.

(k) Office of General Counsel.

(l) Office of Communication Services.

(m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy and Budget.
(q) Office of Personnel Services.
(r) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
(a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. ***The Governor's Office for Technology***~~[Office of the Chief Information Officer]~~.

Section 11. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) ***Governor's Office for Technology***~~[Office of the Chief Information Officer]~~; and
(10) Office of Coal Marketing and Export.

Section 12. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set ***by the Governor's Office for Technology***~~[out in KRS 61.940 to 61.953]~~ are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the

Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 13. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Budget, the Office of Financial Management and Economic Analysis, the Office of Capital Plaza Operations, and the Office of the Controller, each of which offices shall be headed by an executive director, the Department for Administration, ***and*** the Department for Facilities Management,~~[and the Department of Information Systems]~~ each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 14. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided ***by the Governor's Office for Technology***~~[in KRS 61.950]~~.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that

budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 15. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The ***Governor's Office for Technology***[~~Department of Information Systems~~] may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***[~~Department of Information Systems'~~] operating account.

(7) All receipts which accrue as the result of the ***Governor's Office for Technology's***[~~Department of Information Systems'~~] providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***[~~Department of Information Systems'~~] operating account.

Section 16. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.760 to 45.810:

(a) "Committee" means the Capital Projects and Bond Oversight Committee.

(b) "Capital construction item" means:

1. The construction, reconstruction, acquisition, and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition or improvement of real property;

4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;

5. The acquisition of any building to be occupied by any:

186.649 Law not to affect existing laws or ordinances of political subdivisions.

186.992 Penalty.

189A.015 Offenses committed prior to July 13, 1984.

189A.060 Pretrial suspension of operator's license.

Section 28. This Act shall become effective October 1, 2000."

Floor Amendment No. 2 House Committee Substitute to **SB 298**, by Representative Wilkey:

By deleting everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused ***if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered***;~~[and]~~

(3) When age is a factor, it shall mean age at the time of the commission of the offense***;***

(4) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment;

(5) "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapters 186 or 189.

Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) ***Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle***~~[While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005]~~;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) ***Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle,***~~[While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005]~~ if the person is under the age of twenty-one (21).

(2) ***With the exception of the results of the tests administered pursuant to subsection (7) of Section 8 of this Act, if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under paragraphs (1)(a) and (1)(e) of this section. The results of the test or tests, however, may be admissible in a prosecution under paragraphs (1)(b) and (1)(d).***

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~] based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4)[~~(3)~~]The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5)[~~(4)~~]Any person who violates the provisions of paragraphs (a), (b), (c)***,*** or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both.[~~ If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.~~] Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.***

(c) [~~If the alcohol concentration is below 0.18, ~~]For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release***[~~. If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony~~].

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. ***If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6)[~~(5)~~]Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection ***(5)***[~~(4)~~] of this section or any other penalty established pursuant to KRS Chapter 189A***, except those established in subsection (1) of Section 3 of this Act***.

(7)[~~(6)~~]If the person is under the age of twenty-one (21) and there was an alcohol concentration of ***0.08***[~~0.10~~] or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection ***(5)***[~~(4)~~] of this section.

(8)[~~(7)~~]For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor

shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9)~~[(8)]~~When sentencing persons under subsection *(5)*~~[(4)]~~(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10)~~[(9)]~~ In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12)~~[(10)]~~ Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections *(5)*~~[(4)]~~ and *(6)*~~[(5)]~~ of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(a) ***or (6)*** of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender ***or a person convicted under subsection (1)(e) of Section 2 of this Act***:

(a) The treatment or education shall be ***completed within***~~[for]~~ a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. ***The alcohol or substance abuse education program, or combination thereof, shall not exceed nine (9) hours in length and no court or state agency shall have the authority to extend the length of the program by administrative regulation or otherwise.***

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant ***shall***~~[may]~~ be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection *(5)*~~[(4)]~~(c) or (d) of KRS 189A.010, the court shall sentence the

person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health Services for services as required under this section.

(6) The Cabinet for Health Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010***(1)(a), (b), (c), or (d)*** shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***~~[($200)]~~, which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The ***revenue collected from the*** service fee ***imposed by this section*** shall be utilized~~[to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.]~~ ***as follows:***

(a) Fifteen percent (15%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b)~~[(4)]~~Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy***;***~~[. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds]~~

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(e) The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in paragraphs (a), (b), and (c) of subsection (3) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 5. KRS 189A.070 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the ***chief information officer***~~[commissioner of the Department of Information Systems]~~, connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the ***chief information officer***~~[commissioner of the Department of Information Systems]~~.

Section 24. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Social Services. The committee shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department for Social Services, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Social Insurance, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

(b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

(a) A mission statement;

(b) Measurable goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Governor's Office for Technology***~~[Kentucky Information Resources Management Commission]~~, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;
(c) Length of time between removal and establishment of permanency;
(d) Reabuse or reoffense rates;
(e) Fatality rates;
(f) Injury and hospitalization rates;
(g) Health care provision rates;
(h) Educational achievement rates;
(i) Multiple placement rates;
(j) Sibling placement rates;
(k) Ethnicity matching rates;
(l) Family maintenance and preservation rate; and
(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 25. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission ***does not reflect gender equity or*** reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a ***male or female so as to achieve as much as possible gender equity or a*** member of the minority group even if the list of nominees for a vacancy does not include a member of the ***particular gender needed to achieve gender equity or a member of the*** minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(5) When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

Section 26. The following KRS sections are repealed:

42.029 Department of Information Systems -- Commissioner and other personnel -- Divisions -- Duties -- Delegation of authority.
42.640 Definitions for KRS 42.650.
61.937 Authority to enter into memoranda of agreement and contracts.
61.938 Office of the Chief Information Officer -- Duties -- Authority for administrative regulations.
61.940 Legislative declarations.
61.942 Definitions for KRS 61.940 to 61.953.
61.945 Kentucky Information Resources Management Commission.
61.948 Powers of commission.
61.950 Meetings -- Roles and duties -- Administrative Regulations.
61.951 Office for the Kentucky Information Resources Management Commission -- Executive director.
61.953 Contents of five-year statewide information resources management plan.
61.954 Construction of KRS 61.940 to 61.953 with respect to judicial and legislative branches.
61.955 Communications Advisory Council.

Section 27. The General Assembly confirms Executive Order 99-1359, dated October 6, 1999, to the extent it is not otherwise confirmed or superseded by this Act; and Executive Order 99-1360, dated October 6, 1999, which transfers twenty-seven (27) positions and all records, files, and equipment directly associated with these positions, from the Office of Technology

Services within the Cabinet for Families and Children to the Governor's Office for Technology.

The House Committee Amendment No. 1 Title to **SB 315** is as follows:

On page 1, by amending the title to read as follows: "AN ACT relating to state government.".

Calendar

SB 4 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 339, SJR 68, SB 101, SB 130, SB 245, SB 275, SB 289, SB 298,** and **SB 330** have been posted for passage in the Orders of the Day for March 22, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **SB 121**

Orders of the Day

Representative Cherry moved that the rules be suspended to grant floor privileges to Heather Renee French, Miss America and to allow her to address the Body. Agreed.

Representative J. Adams moved that the rules be suspended to grant floor privileges to former member Richard Frymire. Agreed.

Report On Enrolled Bills

HB 4, HB 180, HB 157, HB 308, HB 503, HB 536, and **HJR 100** delivered to the Senate and signed by the President. Delivered to the Governor on March 21, 2000, at 2:32 p.m.

Senate Message

Announcing passage of **SB 347, SB 379, HB 62, HB 85, HB 294, HB 431, HB 482, HB 780,** and **HCR 54**. (Time: 2:55 p.m.)

Message in regard to **HB 616**: The Senate has passed **HB 616** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body..

Orders of the Day (Continued)

HB 96, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 96** is as follows:

HB 96, AN ACT relating to establishment of the Kentucky Tobacco Settlement Trust Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' Attorneys General dated November 23, 1998;

(b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;

(c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and

(d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

(a) The Governor, who shall serve as chair of the corporation;

(b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;

(c) The Attorney General, who shall serve as secretary of the corporation;

(d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;

(e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;

(f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;

(g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and

(h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

(a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;

(b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

(c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

(d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;

(e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;

(f) Submitting information required by the trustee of the settlement trust;

(g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions;

(h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of

this section; and

(i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.

(8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.

- (b) Department for Libraries and Archives.
- (c) Kentucky Arts Council.
- (d) Kentucky Educational Television.
- (e) Kentucky Historical Society.
- (f) Kentucky Teachers' Retirement System Board of Trustees.
- (g) Kentucky Center for the Arts.
- (h) Kentucky Craft Marketing Program.
- (i) Kentucky Commission on the Deaf and Hard of Hearing.
- (j) Governor's Scholars Program.
- (k) Governor's School for the Arts.
- (l) Operations and Development Office.
- (m) Kentucky Heritage Council.
- (n) Kentucky African-American Heritage Commission.
- (o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
   - (a) Environmental Quality Commission.
   - (b) Kentucky Nature Preserves Commission.
   - (c) Department for Environmental Protection.
   - (d) Department for Natural Resources.
   - (e) Department for Surface Mining Reclamation and Enforcement.
   - (f) Office of Legal Services.
   - (g) Office of Information Services.
4. Transportation Cabinet:
   - (a) Department of Highways.
   - (b) Department of Vehicle Regulation.
   - (c) Department of Administrative Services.
   - (d) Department of Fiscal Management.
   - (e) Department of Rural and Municipal Aid.
   - (f) Office of General Counsel.
   - (g) Office of Public Affairs.
   - (h) Office of Personnel Management.
   - (i) Office of Minority Affairs.
   - (j) Office of Environmental Affairs.
   - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
   - (a) Department of Administration and Support.
   - (b) Department of Job Development.
   - (c) Department of Financial Incentives.
   - (d) Department of Community Development.
   - (e) Tobacco Research Board.
   - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f) Department of Public Advocacy.

- (g) Department of Alcoholic Beverage Control.
- (h) Kentucky Racing Commission.
- (i) Board of Claims.
- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.
- (l) Backside Improvement Commission.
- (m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
   - (a) Department for Social Insurance.
   - (b) Department for Social Services.
   - (c) Public Assistance Appeals Board.
   - (d) Office of the Secretary.
   - (e) Office of the General Counsel.
   - (f) Office of Program Support.
   - (g) Office of Family Resource and Youth Services Centers.
   - (h) Office of Technology Services.
   - (i) Office of the Ombudsman.
   - (j) Office of Aging Services.
8. Cabinet for Health Services.
   - (a) Department for Public Health.
   - (b) Department for Medicaid Services.
   - (c) Department for Mental Health and Mental Retardation Services.
   - (d) Kentucky Commission on Children with Special Health Care Needs.
   - (e) Office of Certificate of Need.
   - (f) Office of the Secretary.
   - (g) Office of the General Counsel.
   - (h) Office of Program Support.
   - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
   - (a) Office of Legal and Legislative Services.
   - (b) Office of Management and Budget.
   - (c) Office of Financial Management and Economic Analysis.
   - (d) Office of the Controller.
   - (e) Department for Administration.
   - (f) Department of Facilities Management.
   - (g) Department of Information Systems.
   - (h) State Property and Buildings Commission.
   - (i) Kentucky Pollution Abatement Authority.
   - (j) Kentucky Savings Bond Authority.
   - (k) Deferred Compensation Systems.
   - (l) Office of Equal Employment Opportunity Contract Compliance.
   - (m) Office of Capital Plaza Operations.
   - (n) County Officials Compensation Board.
   - (o) Kentucky Employees Retirement Systems.
   - (p) Commonwealth Credit Union.
   - (q) State Investment Commission.
   - (r) Kentucky Housing Corporation.
   - (s) Governmental Services Center.

(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
(w) Kentucky Kare Health Insurance Authority.
(x) Kentucky Tobacco Settlement Trust Corporation.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor-Management Relations and Mediation.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.

(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy and Budget.
(q) Office of Personnel Services.
(r) Unemployment Insurance Commission.

14. Personnel Cabinet:
  (a) Office of Administrative and Legal Services.
  (b) Department for Personnel Administration.
  (c) Department for Employee Relations.
  (d) Kentucky Public Employees Deferred Compensation Authority.
  (e) Kentucky Kare.
  (f) Division of Performance Management.
  (g) Division of Employee Records.
  (h) Division of Staffing Services.
  (i) Division of Classification and Compensation.
  (j) Division of Employee Benefits.
  (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
  1. Department of Military Affairs.
  2. Council on Postsecondary Education.
    (a) Kentucky Commission on Community Volunteerism and Service.
  3. Department for Local Government.
  4. Kentucky Commission on Human Rights.
  5. Kentucky Commission on Women.
  6. Department of Veterans' Affairs.
  7. Kentucky Commission on Military Affairs.
  8. Office of the Chief Information Officer.

Section 3. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

(1) State Property and Buildings Commission;
(2) Kentucky Pollution Abatement Authority;
(3) Kentucky Savings Bond Authority;
(4) County Officials Compensation Board;
(5) Kentucky Turnpike Authority;
(6) State Investment Commission;
(7) Kentucky Housing Corporation;~~[and]~~
(8) Governmental Services Center***; and***
(9) Kentucky Tobacco Settlement Trust Corporation.

Section 4. The initial citizen members of the Kentucky Tobacco Settlement Trust Corporation Board shall be those appointed in accordance with, and for the terms specified in, Executive Order 99-1000.

Section 5. The General Assembly hereby confirms Executive Order 99-1000, issued by the Governor on July 15, 1999, to the extent that it is not otherwise confirmed by this Act.

Representative Stumbo moved that the House concur in Senate Committee Substitute to **HB 96**. Agreed.

Representative Stumbo moved that **HB 96**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 21, 2000 roll call on **HB 96** - Appendix.)

HB 96, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 96**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 53, SB 56, SB 65, SB 100, SB 125, SB 143, SB 166, SB 174, SB 202, SB 233, SB 236, SB 240, SB 265, SB 272,** and **SCR 61** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:57 p.m.)

Orders of the Day (Continued)

HB 78, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 78** is as follows:

HB 78, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Order 98-1377, dated October 14, 1998, but this confirmation shall only extend until December 9, 2003, and thereafter the terms of that order shall expire and be without effect.

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 78**. Agreed.

Representative Stumbo moved that **HB 78**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93**, **Nays 2**. (See March 21, 2000 roll call on **HB 78** - Appendix.)

HB 78, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 78**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 243, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 243** is as follows:

On page 2, on line 5, by placing brackets around and striking through "the Governor and"; and

On page 2, between lines 6 and 7 by inserting:

"***(8) The commissioner shall advise the Governor on matters relating to veterans' affairs.***" and

On page 2, on line 7 by deleting the "*(8)*" and inserting "*(9)*" and following "The" by inserting "***commissioner***" and by placing brackets around and striking through "board".

Representative Stumbo moved that the House concur in Senate Committee Amendment No. 1 to **HB 243**. Agreed.

Representative Stumbo moved that **HB 243**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 21, 1998 roll call on **HB 243** - Appendix.)

HB 243, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 243**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 317** is as follows:

HB 317, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;

(e) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. Families and Children;
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation;
6. Workforce Development;~~[and]~~
7. Education, Arts, and Humanities;
8. ***Health Services;***
9. ***Revenue; and***
10. ***Labor;***

(f) The Attorney General, or his designee;

(g) ***The commissioner of the Department of Veterans' Affairs or a designee;***

(h) The executive director of the Kentucky Commission on Military Affairs or a designee;

(i) Kentucky's Civilian Aide to the Secretary of the United States Army;

(j) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;

(k)[~~(h)~~]The commander or ***the***[~~his~~] designee of ***the commander of*** each of the following as nonvoting, ex officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. The One Hundredth Training Division;
7. ***Technology Park of Greater Louisville***[~~Louisville/Jefferson County Redevelopment Authority~~]; and
8. Any other installation or organization***, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps,*** with a[~~ major~~] military mission in the Commonwealth; and

(l)[~~(i)~~] Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, ***the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs,*** and the five (5) at-large members. ***The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.***[~~The Governor shall appoint the chair and vice chair of the commission from the five (5) at-large members, by September 30, 1996. The chair shall call a meeting of the commission by October 31, 1996, for the purpose of creating an executive committee.~~]

(b) The chair and vice chair of the commission shall ***also*** serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission[~~ with approval of the executive committee~~].

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 2. The General Assembly hereby confirms Executive Order 99-1592, dated December 3, 1999, to the extent it is not otherwise confirmed or superseded by this Act.

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 317**. Agreed.

Representative Stumbo moved that **HB 317**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 21, 2000 roll call on **HB 317** - Appendix.)

HB 317, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 317**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 69, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 69** is as follows:

On page 4, after line 5, by inserting the following:

"Section 2. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

- (a) Proof of financial or moral unfitness of applicant;
- (b) Material misstatement in application for license;
- (c) Filing a materially false or fraudulent tax return as certified by the Revenue Cabinet;
- (d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;
- (e) Willfully defrauding any retail buyer to the buyer's damage;
- (f) Willful failure to perform any written agreement with any buyer;
- (g) Failure or refusal to furnish and keep in force any bond required;
- (h) Having made a fraudulent sale, transaction, or repossession;
- (i) False or misleading advertising;
- (j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;
- (k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;
- (l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;
- (m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;
- (n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;
- (o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;
- (p) Being a ***maufacturer, factory branch,*** distributor***, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch,*** or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any ***manufacturer***~~[license holder]~~ from ***offering discounts or rebates on***~~[selling]~~ any motor vehicle to any of its employees;
- (q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.".

Representative Collins moved that the House concur in Senate Floor Amendment No. 1 to **HB 69**. Agreed.

Representative Collins moved that **HB 69**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 21, 2000 roll call on **HB 69** - Appendix.)

HB 69, as amended by the Senate, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 69**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 16** is as follows:

HB 16, AN ACT relating to the area development districts' boards of directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.060 is amended to read as follows:

There shall be in each area development district a board of directors. The composition of the board and the terms and appointments of its members in each district shall be specified by administrative regulation promulgated by the Department for Local Government in accordance with KRS Chapter 13A. The designee of a mayor or county judge/executive shall be a member of the designator's respective legislative body or their staff. Other persons who are not elected officials or ***members of*** their ***staffs***[~~staff~~] may be designated as ***representatives***[~~a representative~~] with the consent of that body. The Department for Local Government in specifying the composition of the board shall conform to applicable federal requirements. ***A person who is a state officer, a deputy state officer, or a member of the General Assembly may serve only in a nonmember advisory capacity to the board of directors of an area development district.***

Representative J. Adams moved that the House refuse to concur in the Senate Committee Substitute to **HB 16**. Agreed.

HB 40, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 40** is as follows:

On page 1, line 6 after "***members***" by inserting "***appointed by the Governor***"; and

On page 1, line 8 by deleting "***Nominees***" and inserting "***Commission members***" in lieu thereof; and

On Page 1, line 20, after "***(3)***" by inserting the following:

"***The Governor shall appoint commission members who reflect, inasmuch as possible, equal representation of the two (2) sexes and in the context of the total membership of all of the commissions, shall approximate the proportional representation of the two (2) leading political parties and the minority racial composition of the state.***

(4)"; and

On page 2, line 3 by changing "***(4)***" to "***(3)***"; and

On page 2, by deleting lines 4 through 7; and

On page 2, line 8 inserting "***(c)*** " before "***Each***"; and

On page 2, line 8 after "***appointment***" by inserting "***to the board of directors***"; and

On page 4, line 10 after "shall" by inserting "***have a conflict of interest in accordance with KRS 45A.340 or***".

Representative Yonts moved that the House concur in Senate Floor Amendment No. 1 to **HB 40**. Agreed.

Representative Yonts moved that **HB 40**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 21, 2000 roll call on **HB 40** - Appendix.)

HB 40, as amended by the Senate, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 40**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 358, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 358** is as follows:

HB 358, AN ACT relating to animal control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog;~~[and]~~

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances***; and***

(13) "Designated license facility" means any person, facility, or business designated by resolution of the fiscal court to collect license fees under Section 3 of this Act.

Section 2. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, ***state appropriations,*** and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys ***from the fund*** shall be~~[allocated for distribution from the fund as follows:~~

~~(a) Fifty percent (50%) of the fund balance shall be allocated annually for distribution to eligible counties. Each eligible county shall receive an equal allotment from the fund. To be eligible for an annual allotment, a county shall have an established animal control and care program meeting the requirements provided in subsection (3) of this section, or an approved plan to establish an animal control and care program as provided in subsection (4) of this section; and~~

~~(b) Fifty percent (50%) of the fund balance shall be transferred annually to the Department of Agriculture. This money shall be]~~ used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training dog wardens and animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. ***When determining the distribution of the moneys relating to training, the need of the applicant shall be one of the criteria considered by the board.*** Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this ***subsection***[~~paragraph~~] may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county:

(a) Employs a dog warden or an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) Maintains a dog pound or animal shelter, or contracts with an adjoining county, to provide services that:

1. Segregate male and female animals in runs and holding areas;
2. Provide separate runs or holding areas for ill or injured animals;
3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit or scratched a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;
4. Provide holding areas with protection from the weather, including heated quarters during cold weather;
5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material or a minimum of three (3) inches of gravel;
6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
7. Employ euthanasia methods recommended by the American Veterinary Medical Association; and
8. Provide other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner.

(4) [~~To be eligible for moneys distributed under paragraph (a) of subsection (2) of this section, counties shall submit documentation to the Animal Control Advisory Board, on a form prescribed by the Department of Agriculture, of an established animal control and care program or an approved plan to establish an animal control and care program.~~]Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under[~~ paragraph (b) of~~] subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of dog wardens or other personnel. Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.

Section 3. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden ***or designated license facility*** of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens ***and designated license facilities*** shall be agents of the Commonwealth in the collection of the license fees[~~ provided for herein~~], unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens ***or designated license facilities*** shall be allowed to retain the sum of twenty-five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department ***quarterly***[~~on or before the fifteenth day of each next succeeding month~~] and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum

enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties.

(2) Any county may choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

Section 4. KRS 258.185 is amended to read as follows:

Each dog warden shall keep a record of all dog and kennel licenses issued***, including licenses issued by designated license facilities,*** and shall report to the department ***quarterly those***[~~monthly his~~] license sales on a form prescribed and supplied by the department. ***Designated license facilities shall make quarterly reports to the dog warden in order for the warden to report to the department.*** The record maintained shall be a public record.

Section 5. KRS 258.215 is amended to read as follows:

(1) Peace officers, dog wardens, or animal control officers shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, dog warden, or animal control officer, after diligent effort to do so, should fail to seize ***the***[~~such a~~] dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any[~~ such~~] dog which an officer, dog warden, or animal control officer seizes shall be impounded for ***a period of five (5) or*** seven (7) days, ***to be determined by the local animal shelter.***[~~and~~] If ***the dog is*** not claimed by the owner or sold in accordance with other provisions of this chapter, then ***the***[~~such~~] dog may be destroyed in some humane manner. ***Any animal shelter, public or private, which takes in stray dogs and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded dogs shall be held, and a contact number.***

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if ***a***[~~such~~] hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, ***the***[~~such~~] owner or handler shall not be deemed to be in violation of the provisions of this section as a result of ***the***[~~such~~] dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 6. The following KRS section is repealed:

258.121 Animal shelter trust fund -- Allocation of moneys.

Section 7. Any moneys remaining in the Animal Shelter Trust Fund on the effective date of this Act shall be transferred to the Animal Control and Care Fund created by Section 2 of this Act.

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 358**. Agreed.

Representative Nunn moved that **HB 358**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 76**, **Nays 16**. (See March 21, 2000 roll call on **HB 358** - Appendix.)

HB 358, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 358**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 249, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 249** is as follows:

HB 249, AN ACT relating to procurement authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.100 is amended to read as follows:

(1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars ($10,000) per project for construction and one thousand dollars ($1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraphs (b) and (c) of this subsection; and

(b) Up to ***forty***[~~twenty~~] thousand dollars ***($40,000)***[~~($20,000)~~] per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least

every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority which exceeds the agency's small purchase limit provided in subsection (1) of this section. Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

Section 2. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than ***two***[~~one~~] hundred[~~ and twenty-five~~] thousand dollars ***($200,000)***[~~($125,000)~~] without first securing the approval of the Finance and Administration Cabinet.

(2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Department of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.

(3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed ***two***[~~one~~] hundred[~~ and twenty-five~~] thousand dollars ***($200,000)***[~~($125,000)~~], shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.

(5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed ***two***[~~one~~] hundred[~~ and twenty-five~~] thousand dollars ***($200,000)***[~~($125,000)~~], may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.

(6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.

(7) This section shall not apply to capital outlays by the Justice Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice Cabinet shall be approved and authorized by the Finance and Administration Cabinet.

Section 3. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ***twenty***[~~ten~~] thousand dollars ***($20,000)***[~~($10,000)~~] without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ***twenty***[~~ten~~] thousand dollars ***($20,000)***[~~($10,000)~~], the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Purchases or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

Section 4. KRS 154.47-045 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 45A, each state agency that has the responsibility for the expenditure of funds in excess of fifty thousand dollars ($50,000) for secondary wood products to be used in state capital construction or renovation projects, including state park renovations, as determined by the secretary of Finance and Administration Cabinet, shall[~~ contract with the Kentucky Wood Products Competitiveness Corporation to~~]:

(a) Provide the Kentucky Wood Products Competitiveness Corporation with a monthly list of proposed projects, which are in excess of fifty thousand dollars ($50,000) in construction, or renovation of state facilities. This list shall include, but shall not be limited to:

1. Name and location of the project;

2. Status of the project;

3. Scope of the work;

4. Funds allocated to the project; and

5. Projected time lines for the project;

(b) Include in the request for proposals, language which requests that bidders contact the Kentucky Wood Products Competitiveness Corporation for suggested vendors of Kentucky secondary wood products; and

(c) Request a list of suggested vendors from the Kentucky Wood Products Competitiveness Corporation when the secondary wood products are in excess of fifty thousand dollars ($50,000) and on multivendor commodity price contracts or are one time commodity purchases.

(2) The Kentucky Wood Products Competitiveness Corporation may:

(a)[~~(1)~~]*Assist in the solicitation of*[~~Solicit~~] bids from Kentucky secondary wood products firms;

(b)[~~(2)~~]Assist firms in preparing and submitting bids;

(c)[~~(3)~~]Assist firms to form networks for the purpose of competing for bids on state capital construction and renovation projects; and

(d)[~~(4)~~]Assist firms in training workers, designing products, developing product lines, and otherwise as necessary to perform under state contracts.

Representative Lee moved that the House concur in the Senate Committee Substitute to **HB 249**. Agreed.

Representative Lee moved that **HB 249**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 21, 2000 roll call on **HB 249** - Appendix.)

HB 249, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 249**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 356, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 356** is as follows:

On page 2, line 6, by deleting "***seven (7)***" and removing the brackets and strikethrough.

Representative Adkins moved that the House concur in Senate Committee Amendment No. 1 to **HB 356**. Agreed.

Representative Adkins moved that **HB 356**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 2**. (See March 21, 1998 roll call on **HB 356** - Appendix.)

HB 356, as amended by the Senate, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 356**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 471** is as follows:

HB 471, AN ACT changing the classification of the City of White Plains in Hopkins County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of White Plains, in Hopkins County, is such as to justify its being classified as a city of the fifth class; and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Albany, in Clinton County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of White Plains, in Hopkins County, is transferred from the sixth to the fifth class of cities.

Section 2. The City of Albany, in Clinton County, is transferred from the fifth to the fourth class of cities.

The Senate Committee Amendment No. 1 Title to **HB 471** is as follows:

By amending the title to read as follows: "AN ACT providing for the reclassification of cities."

Representative Yonts moved that the House concur in the Senate Committee Substitute to **HB 471**. Agreed.

Representative Yonts moved that **HB 471**, by way of Senate Committee Substitute by the Senate, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 21, 2000 roll call on **HB 471** - Appendix.)

HB 471, by way of Committee Substitute by the Senate, was passed.

Representative Yonts moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 471**. Agreed; and the title was agreed to.

Representative Yonts moved that the vote by which **HB 471**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 165, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 165** is as follows:

HB 165, AN ACT relating to kinship care for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 605.120 is amended to read as follows:

(1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children ***who would otherwise be placed in foster care or who are*** placed by the cabinet in a foster home or boarding home, or may arrange for

payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.

(2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.

(3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the Legislative Research Commission comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.

(4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.~~[Pilot projects may include but not be limited to kinship care]~~

(5) To the extent funds are available, the cabinet may establish a program for kinship care that provides a more permanent placement with a qualified relative for a child that would otherwise be placed in foster care due to abuse, neglect, or death of both parents.

(6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. The administrative regulations shall include uniform conditions and requirements regarding:

(a) Eligibility requirements for the kinship caregiver and the child;

(b) Financial assistance and payment rates; and

(c) Support services and case management services that may be provided to the kinship caregiver or the child.

Section 2. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no

jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, ***or if the child is eligible for kinship care as established in Section 1 of this Act,*** it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence or the county wherein the offense was committed, as the case may be.

(8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce valid court orders previously issued by the court.

(9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the Department of Juvenile Justice or the cabinet in the placement, care, or treatment of a child committed to the Department of Juvenile Justice or the cabinet; or to require the department or the cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the department or the cabinet.

(10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c) until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Representative Burch moved that the House concur in the Senate Committee Substitute to **HB 165**. Agreed.

Representative Burch moved that **HB 165**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 3**. (See March 21, 2000 roll call on **HB 165** - Appendix.)

HB 165, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 165**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 204, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 204** is as follows:

HB 204, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.040 is amended to read as follows:

(1) ***(a)*** Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall ***immediately***~~[forthwith]~~ notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall,~~[investigate the matter immediately and]~~ within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action ***that***~~[which]~~ has been taken on the ***investigation***~~[matter]~~.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall ***immediately***~~[forthwith]~~ notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) ***(a)*** Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall ***immediately***~~[forthwith]~~ notify the cabinet or its designated representative.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet~~[shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but]~~ need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of~~[such]~~ reports ***made under this subsection***.

(3) If the cabinet or its designated representative receives a report of abuse by ***a person*** other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall ***immediately***~~[forthwith]~~ notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative ***shall***~~[may]~~ participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.

(4)~~[(3)]~~School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5)~~[(4)]~~(a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be ***requested from, and may be*** issued by***,*** the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he ***or she*** shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6)~~[(5)]~~(a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but ***shall***~~[is]~~ not ***be*** limited to, family service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members~~[,]~~ and anyone invited by the multidisciplinary team to participate in a meeting~~[,]~~ shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members~~[,]~~ and others attending meetings~~[,]~~ shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 2. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation ***or assessment of family needs***, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(4) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation ***or assessment*** made pursuant to this chapter, shall not be divulged to anyone except:

- (a) Persons suspected of causing dependency, neglect, or abuse;
- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
- (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
- (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
- (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
- (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or
- (g) Those persons so authorized by court order.

(5) ***Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:***

- ***(a) To law enforcement officials that have a legitimate interest in the case;***
- ***(b) To the agency designated by the cabinet to investigate or assess the report;***
- ***(c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or***
- ***(d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report***[~~The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case~~].

(6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising

custodial control or supervision of the child, as a part of the medical evaluation or investigation of ***these***[~~such~~] reports. ***These***[~~Such~~] photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking[~~ such~~] photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Representative Burch moved that the House concur in the Senate Committee Substitute to **HB 204**. Agreed.

Representative Burch moved that **HB 204**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 8**. (See March 21, 2000 roll call on **HB 204** - Appendix.)

HB 204, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 204**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 10, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 10** is as follows:

On page 1, line 5, after "*(18)*" by inserting "***and in plain view of the law enforcement officer***".

Representative Nunn moved that the House concur in Senate Floor Amendment No. 2 to **HB 10**. Agreed.

Representative Nunn moved that **HB 10**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 80, Nays 9**. (See March 21, 2000 roll call on **HB 10** - Appendix.)

HB 10, as amended by the Senate, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 10**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 427, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 427** is as follows:

From page 10 line 17 through page 11 line 1, delete Section 7 in its entirety and renumber subsequent sections.

Representative Nunn moved that the House concur in Senate Floor Amendment No. 1 to **HB 427**. Agreed.

Representative Nunn moved that **HB 427**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 21, 2000 roll call on **HB 427** - Appendix.)

HB 427, as amended by the Senate, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 427**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 449** is as follows:

On page 2, beginning on line 22 and continuing on line 23, by deleting "***within ten (10) days of the emergency closure***" and inserting "***at least ten (10) days prior to filing an emergency petition in the Circuit Court***" in lieu thereof.

The Senate Floor Amendment No. 2 to **HB 449** is as follows:

On page 4, between lines 16 and 17, by inserting the following:

"Section 4. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

   (a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

   (b) Department for Social Services;

   (c) Local school districts;

   (d) Psychiatric hospitals; and

   (e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations***, or the Council on Accreditation, or any other accrediting body with comparable standards that is recognized by the state***.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital.

(5) The total number of psychiatric residential treatment facility beds shall not exceed sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population.", and renumbering subsequent sections accordingly;

On page 4, line 19, after the second appearance of "and" by inserting "Sections 1 to 3 of";

On page 4, line 20, by deleting "takes" and inserting "take" in lieu thereof.

The Senate Floor Amendment No. 3 Title to **HB 449** is as follows:

By amending the title to read as follows: "AN ACT relating to facilities serving persons with mental illness and mental retardation, and declaring an emergency."

Representative Heleringer moved that the House concur in the Senate Committee Amendment No. 1 to **HB 449**. Agreed.

Representative Heleringer moved that the House concur in Senate Floor Amendment No. 2 to **HB 449**. Agreed

Representative Heleringer moved that **HB 449**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 2.** (See March 21, 2000 roll call on **HB 449** - Appendix.)

HB 449, as amended by the Senate, was passed.

Representative Heleringer moved that the House concur in Senate Floor Amendment No. 3 Title to **HB 449**. Agreed; and the title was agreed to.

Representative Heleringer moved that the vote by which **HB 449**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 314** is as follows:

On page 5, line 23, after "Section 5." by inserting "KRS 224.20-720 is amended to read as follows:

(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority***, except that vehicles registered to military personnel on active duty whose duty station is outside of a county where a vehicle exhaust testing program is implemented shall receive an exemption certificate***. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially

numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.

(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to KRS 224.20-710 to 224.20-765. Vehicles with state or official registration routinely operating in these counties shall be inspected at least once within each twelve (12) month period following the original registration.

Section 6. KRS 77.115 is amended to read as follows:

(1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.

(2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall have regulatory authority for the district, and the city or county, as appropriate, shall exercise funding and administrative control of the district.

(3) In a county where the air pollution control board makes a finding of the need for and requires the implementation of a vehicle exhaust testing program, the board shall exempt from the program vehicles registered to military personnel on active duty whose duty station is outside of the county.

Section 7. KRS 77.170 is amended to read as follows:

(1) The General Assembly does not, by the provisions of this chapter, intend to occupy the field ***except for requiring a county air pollution control board to exempt from the requirements of a vehicle exhaust testing program vehicles registered to military personnel on active duty whose duty station is outside of a county***. The provisions of this chapter do not prohibit the enactment or enforcement of any local ordinance stricter than the provisions of KRS 77.150 to 77.180 and stricter than the rules and regulations adopted pursuant to KRS 77.180 to 77.240, which local ordinance prohibits, regulates, or controls air pollution.

(2) ***Except for requiring a county air pollution control board to exempt from the requirements of a vehicle exhaust testing program vehicles registered to military personnel on active duty whose duty station is outside of a county, the*** ~~[The]~~ provisions of this chapter do not supersede any such local ordinance. If it should be held that the provisions of this chapter supersede the provisions of any local ordinance, such suspension shall not bar the prosecution or punishment of any violation of such ordinance which violation was committed when such ordinance, was in full force and effect.

Section 8."

Representative Heleringer moved that the House concur in Senate Floor Amendment No. 1 to **HB 314**. Agreed.

Representative Heleringer moved that **HB 314**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 21, 2000 roll call on **HB 314** - Appendix.)

HB 314, as amended by the Senate, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 314**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 127, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 127** is as follows:

HB 127, AN ACT relating to the disposition of real and personal property by counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate ***or personal property*** belonging to the county, and buy land for the use of the county, when necessary, for the lawful purposes of the county as provided for in this section and KRS 67.083. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded.

1. When real property is purchased, the county shall pay no more than the highest appraised value, as determined by a Kentucky certified real property appraiser as defined in KRS 324A.010, or the price determined through exercising the power of eminent domain, if that power is used. A valuation of the ***real*** property shall not be required if the purchase price is forty thousand dollars ($40,000) or less;

2. When real property is conveyed or sold, the county shall convey or sell it in accordance with Section 2 of this Act; and

3. When personal property is conveyed or sold, the county shall convey or sell it in accordance with Section 2 of this Act.

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, employ a competent person to keep such accounts and records, pay such person a reasonable compensation for such services, and have the accounts of the county and all county officers audited, when necessary and in accordance with the provisions of KRS 43.070 and 64.810;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices; and

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 to 68.360, for purposes required by law;

(b) As needed, cause the construction, operation, and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county; and

(d) Provide for the incarceration of prisoners according to the provisions of KRS Chapter 441.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A county may sell or otherwise dispose of any of its real or personal property.

(2) Before selling or otherwise disposing of any real or personal property, the county shall make a written determination setting forth and fully describing:

(a) The real or personal property;

(b) Its intended use at the time of acquisition;

(c) The reasons why it is in the public interest to dispose of it; and

(d) The method of disposition to be used.

(3) Real or personal property may be:

(a) Transferred, with or without compensation, to another governmental agency;

(b) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);

(c) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b); or

(d) Sold by sealed bids in accordance with the procedure for sealed bids under subsections (3) and (4) of KRS 45A.365.

(4) If a county receives no bids for the real or personal property, either at public auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the county. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the county.

Representative Vincent moved that the House concur in Senate Committee Substitute to **HB 127**. Agreed.

Representative Vincent moved that **HB 127**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2000 roll call on **HB 127** - Appendix.)

HB 127, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 127**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 143, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 143** is as follows:

On page 2, line 17 after the word "***body.***" by inserting the following new language:

"***Any person objecting to renaming the relocated city under this section may present a petition objecting to the renaming of the city by submitting the petition to the county clerk of the county in which the city is located. The petition shall be in the following form: "The registered voters living within (provide the name the existing relocated city) hereby object to the question for the renaming of the city." If the petition is signed and dated by at least twenty-five percent (25%) of the registered voters residing in the relocated city, an election shall be held on the question of renaming the city. The county clerk shall examine the petition and verify the validity of the signatures. If a petition containing at least twenty-five percent (25%) of the registered voters residing in the relocated city is submitted to the county clerk, and certified by the county clerk as sufficient, by the second Tuesday in August, the question of renaming the relocated city shall be placed on the ballot for the next general election. The ballot shall contain at least two (2) but no more than four (4) names as potential new names for the relocated city.***";

On page 2, on line 17 by inserting a new subsection "***(9)***" before the word "***Upon***".

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 143**. Agreed.

Representative Wayne moved that **HB 143**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 21, 1998 roll call on **HB 143** - Appendix.)

HB 143, as amended by the Senate, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 143**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the motion that **HB 350** be taken from the Orders of the Day be withdrawn. Agreed.

HB 275, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 275** is as follows:

On Page 1, line 12, by deleting "***and***"; and

On Page 1, line 13, after "***governments***", by inserting "***, and sheriffs***"; and

On Page 2, after line 5, by inserting the following new language.

"Section 2. KRS 65.220 is amended to read as follows:

It is the purpose of KRS 65.210 to 65.300 to permit local governmental units ***and the sheriff*** to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

Section 3. KRS 65.230 is amended to read as follows:

As used in KRS 65.210 to 65.300, unless the context otherwise requires, "public agency" means any political subdivision of this state, any agency of the state government or of the United States, ***a sheriff*** and any political subdivision of another state. It also means a state-supported or private institution of higher education and a county or independent public school district for the purposes of entering into a joint agreement to establish and operate a program or facility, including a center for child learning and study, designed to help one (1) or more schools meet any of the goals set forth in KRS 158.6451, or for the investment of funds. If a private institution of higher education proposes to participate in an agreement pursuant to the Interlocal Cooperation Act, the Attorney General shall determine if the proposal is compatible with the United States Constitution, as part of the review of the agreement provided in KRS 65.260(2).

Section 4. KRS 65.245 is amended to read as follows:

(1) It is the purpose of this section to clarify the ability of cities, counties, urban-counties, ~~[and]~~ charter-counties***, and sheriffs*** to share their revenues by entering into interlocal agreements.

(2) Any city, county, urban-county, or charter-county may by ordinance enter into cooperative interlocal agreements for the sharing of revenues. ***A sheriff may enter into a memorandum of agreement with local governments for the purposes of sharing of revenues.*** The distribution of the revenues shall be as agreed upon by the local governments ***or the sheriff*** and contained in the interlocal agreement.".

The Senate Floor Amendment No. 2 Title to **HB 275** is as follows:

By amending the title to read as follows: "AN ACT relating to interlocal agreements.".

Representative J. Adams moved that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 275**. Agreed.

HB 348, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 62, HB 85, HB 294, HB 431, HB 482, HB 780,** and **HCR 54** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:45 p.m.)

Orders of the Day (Continued)

The Senate Committee Amendment No. 1 to **HB 348** is as follows:

On Page 1, Line 6 after the word "***been***" by inserting the following words, "***or will be***"; and

On Page 1, Line 11 after the word "***lien***" by inserting the following words, "***unless it is accompanied by a release of the lien***".

Representative Upchurch moved that the House concur in Senate Committee Amendment No. 1 to **HB 348**. Agreed.

Representative Upchurch moved that **HB 348**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 2.** (See March 21, 1998 roll call on **HB 348** - Appendix.)

HB 348, as amended by the Senate, was passed and the title agreed to.

Representative Upchurch moved that the vote by which **HB 348**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 486, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 486** is as follows:

On page 2, by deleting Section 2 and Section 3 in their entirety, and after line 12 by inserting the following:

"Section 2. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).

(2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.

(3) For the calendar year ***2001***~~[1999]~~ and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If ***the***~~[such]~~ "trust fund balance":

(a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.

(b) Equals or exceeds three hundred fifty million dollars ($350,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect.

(c) Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(d) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(e) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(f) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to ***the***~~[such]~~ calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	***0.012%***~~[0.157%]~~	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	***0.112%***~~[0.257%]~~	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	***0.212%***~~[0.357%]~~	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	***0.412%***~~[0.557%]~~	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	***0.712%***~~[0.857%]~~	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	***1.012%***~~[1.157%]~~	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	***1.212%***~~[1.357%]~~	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	***1.512%***~~[1.657%]~~	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	***1.712%***~~[1.857%]~~	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	***1.812%***~~[1.957%]~~	2.10%	2.30%	2.60%	2.80%	3.20%

2.0% but under 2.7%	***1.912%***~~[2.057%]~~		2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	***2.012%***~~[2.157%]~~		2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	***2.112%***~~[2.257%]~~		2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%	
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%	
-1.5% but under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%	
-2.0% but under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%	
-3.0% but under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%	
-4.0% but under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%	
-6.0% but under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%	
-8.0% but under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%	
Less than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%	

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the department ***on that***~~[as of such]~~ date shall be considered as being in the fund on ***that***~~[such]~~ date.

(b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to ***the***~~[such]~~ account, ***the***~~[such]~~ account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 3. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one and one hundred eighty-five one-thousandths percent (1.185%) of his total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars ($39), nor more than the maximum rate as determined in accordance with subsection (3) of this section. For claims effective on or after ***January 1, 2001***~~[January 1, 1999]~~, the weekly benefit rate shall, except as provided in KRS 341.390, be ***one and two thousand seven hundred fifty-eight ten***~~[one and two hundred thirty-five]~~ thousandths percent ***(1.2758%)***~~[(1.235%)]~~ of his total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars ($39) nor more than the maximum rate as determined in accordance with subsection (3) of this section~~[; provided, however, that the tax rate schedule prescribed in KRS 341.270(3)(a) is in effect in that year. If that rate schedule is not in effect in calendar year~~

~~1999 but takes effect in a subsequent calendar year, the increase in the weekly benefit rate calculation shall apply to claims effective on or after January 1 of the year in which that rate schedule is in effect]~~.

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty-five percent (55%) of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year; beginning in calendar year 1999, or any subsequent year in which the increase in the weekly benefit rate calculation set forth in subsection (2) of this section should take effect, sixty-two percent (62%) of the average weekly wage, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of that year and prior to the first day of July of the next following year; except that for the benefit years beginning on or after July 1, 1982, if the "trust fund balance" as of December 31 immediately preceding the benefit year is less than one hundred twenty million dollars ($120,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate. If such "trust fund balance" as of December 31 immediately preceding the benefit year:

(a) Equals or exceeds one hundred twenty million dollars ($120,000,000), but is less than one hundred fifty million dollars ($150,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than six percent (6%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(b) Equals or exceeds one hundred fifty million dollars ($150,000,000), but is less than two hundred fifty million dollars ($250,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than eight percent (8%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(c) Equals or exceeds two hundred fifty million dollars ($250,000,000), but is less than two hundred seventy-five million dollars ($275,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than ten percent (10%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1).

(d) Equals or exceeds two hundred seventy-five million dollars ($275,000,000), but is less than three hundred fifty million dollars ($350,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve percent (12%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1); and

(e) Is such that it resulted in the establishment of an employer contribution rate schedule, as provided for in KRS 341.270, for the current calendar year which has a higher minimum rate than the schedule in effect for the immediately preceding calendar year, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of:

(a) Twenty-six (26) times his weekly benefit rate; or

(b) One-third (1/3) of his base-period wages, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1), shall be adjusted to the nearest multiple of one dollar ($1).".

The Senate Floor Amendment No. 2 Title to **HB 486** is as follows:

By amending the title to read as follows:

"AN ACT relating to unemployment insurance.".

Representative Gray moved that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 486**. Agreed.

HB 330, with Senate Committee Amendments and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 2 to **HB 330** is as follows:

On page 1, line 19 and 20, by deleting "***those defined in Section 2 of this Act***" and inserting in lieu thereof "***a Kentucky resident, as that term is defined in KRS 141.010***".

The Senate Floor Amendment No. 3 to **HB 330** is as follows:

On page 5, after line 8 and before line 9, by inserting:

"Section 3. KRS 154.28-110 is amended to read as follows:

(1) The approved company may require, in lieu of receiving the income tax credits described in KRS 154.28-090, that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay a job development assessment fee, equal to ***three***[~~two~~] percent *(3%)*[~~(2%)~~] of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring the loans or other financing as described in KRS 154.28-090, incurred in connection with the economic development project.

(2) Each employee so assessed shall be entitled to a credit against Kentucky income tax withheld as provided by KRS 141.310 and 141.350 equal to the job development assessment fee withheld from his or her wages during the calendar year.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date any loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project mature or are prepaid in full."; and

On page 5, line 9, by deleting "3" after "Section", and inserting in lieu thereof "4"; and

On page 5, line 10, by inserting " and it is important to induce economic development and promote the growth of industry in the Commonwealth," after the ",".

The Senate Committee Amendment No. 1 to **HB 330** is as follows:

On page 4, line 20, after the word "products;" by adding the word "***construction;***".

Representative Wayne moved that the House concur in Senate Committee Amendment No. 2 to **HB 330**. Agreed.

Representative Wayne moved that the House concur in Senate Floor Amendment No. 3 to **HB 330**. Agreed.

Representative Wayne moved that the House refuse to concur in the Senate Committee Amendment No. 1 to **HB 330**. Agreed.

HB 501, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 501** is as follows:

HB 501, AN ACT relating to anhydrous ammonia.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.482 is amended to read as follows:

As used in KRS 250.483 to 250.488:

(1) "Department" means the Department of Insurance;

(2) "Division" means the Division of Fire Prevention in the Department of Housing, Buildings and Construction.

(3) "Anhydrous ammonia" refers to the compound formed by the combination of the two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia gas in compressed or liquefied form, and is not aqueous ammonia.

(4) "Approved container" means a container for anhydrous ammonia which meets or exceeds the requirements of the Federal law or regulation for the storage and handling of anhydrous ammonia.

Section 2. KRS 250.483 is amended to read as follows:

The Division of Fire Prevention in the Department of ***Housing, Buildings and Construction***[~~Insurance~~] shall make, promulgate, and enforce ***administrative*** regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia. ***The administrative***[~~Said~~] regulations shall be such as are reasonably necessary for the protection and safety of the public and persons using such materials, and shall be in substantial conformity with the generally-accepted standards of safety concerning the same subject matter.~~[Such regulations shall be adopted by the division after a public hearing thereon.]~~ ***Administrative*** regulations in substantial conformity with the published standards of the ***Fertilizer***~~[Agricultural Ammonia]~~ Institute and the Compressed Gas Association for the design, installation, and construction of containers and equipment for the storage and handling of anhydrous ammonia shall be deemed to be in substantial conformity with the generally-accepted standards of safety concerning the same subject matter.

Section 3. KRS 250.486 is amended to read as follows:

No person, firm or corporation other than the owner of the facility and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered, or use in any manner any anhydrous ammonia container or receptacle for any gas, compound, for any other purpose whatsoever. Any wholesaler, dealer, or handler of anhydrous ammonia or pressure liquid fertilizers that have a vapor pressure in excess of fifty (50) pounds at one hundred (100) degrees Fahrenheit shall ***be registered***~~[register annually]~~ with the division~~[, and shall pay an annual license fee based on the volume of the previous year's business. The license fee shall be at least thirty-five dollars ($35); operators who have handled more than two hundred and fifty (250) tons during the previous year shall pay an additional amount equal to fifteen cents ($0.15) for each ton handled in excess of two hundred and fifty (250). The application for license shall be accompanied by an affidavit stating the applicant's volume of business. The division or its representative shall have the privilege of checking the validity of the information contained in the affidavit]~~.

SECTION 4. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to knowingly possess anhydrous ammonia in any container other than an approved container.

(2) The provisions of this section shall not apply to trained chemists working in properly equipped research laboratories in education, government, or corporate settings.

(3) It shall be an affirmative defense to prosecution under this section that the anhydrous ammonia is possessed for the sole purpose of agricultural use.

SECTION 5. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to tamper with equipment, containers, or facilities used for the storage, handling, transporting, or application of anhydrous ammonia.

(2) Tampering occurs when any person who, having no right to do so, or any reasonable ground to believe that he has the right for a legitimate or legal purpose, transfers or attempts to transfer anhydrous ammonia to another container, or intentionally or wantonly defaces, destroys, or damages the equipment, container, or facility containing anhydrous ammonia.

SECTION 6. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

Any person tampering with anhydrous ammonia equipment, containers or storage facilities in violation of Section 4 of this Act shall not have a cause of action against the owner of the equipment, container, or facility; any person responsible for the installation, maintenance, or operation of the equipment, container or facility; any person lawfully selling anhydrous ammonia; or any person lawfully purchasing anhydrous ammonia for agricultural purposes for damages arising out of the tampering.

Section 7. KRS 250.991 is amended to read as follows:

(1) Except as provided in Section 3 or Section 4 of this Act, any person who violates any provision of KRS 250.482 to 250.488 shall be fined not more than five hundred dollars ($500).

(2) Any person who knowingly possesses anhydrous ammonia in a container other than an approved container in violation of Section 3 of this Act is guilty of a Class D felony unless it is proven that the person violated Section 3 of this Act with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

(3) A violation of Section 4 of this Act is a Class D felony unless it is proven that the person violated Section 4 of this Act with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

Section 8. KRS 514.030 is amended to read as follows:

(1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

  (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

  (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more,~~[or unless the property is a firearm (regardless of the value of the firearm),]~~ in which case it is a Class D

felony***; or unless:***

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or

(b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

Section 9. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more,~~[or unless the property is a firearm (regardless of the value of the firearm),]~~ in which case it is a Class D felony***; or unless:***

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or

(b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432 in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

Section 10. The following KRS sections are repealed:

250.487 Disposition of license fees.

250.488 Order to correct violation -- Injunctive remedies.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 501** is as follows:

On page 3, line 12, to delete "***Section 4***" and to insert thereof "***Section 5***"; and

On page 3, line 19, to delete "***Section 3 or Section 4***" and to insert in lieu thereof "***Section 4 or Section 5***"; and

On page 3, line 23, to delete "***Section 3***" and to insert in lieu thereof "***Section 4***"; and

On page 3, line 24, to delete "***Section 3***" and to insert in lieu thereof "***Section 4***"; and

On page 4, line 1, to delete "***Section 4***" and to insert in lieu thereof "***Section 5***"; and

On page 4, line 2, to delete "***Section 4***" and the insert in lieu thereof "***Section 5***".

Representative Thomas moved that the House concur in the Senate Committee Substitute to **HB 501**. Agreed.

Representative Thomas moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed.

Representative Thomas moved that **HB 501** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 21, 2000 roll call on **HB 501** - Appendix.)

HB 501, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 501**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 76, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 76** is as follows:

On page 1, line 14, before "(3)" by inserting "***(2)***" and bracketing and striking through "(3)"; and

On page 4, line 23, by deleting "***Either a***" and inserting "***A***" in lieu thereof.

Representative Weaver moved that the House concur in Senate Committee Amendment No. 1 to **HB 76**. Agreed.

Representative Weaver moved that **HB 76**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 21, 1998 roll call on **HB 76** - Appendix.)

HB 76, as amended by the Senate, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 76**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 300, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 300** is as follows:

On page 1, by deleting lines 16 to 25 in their entirety;
On page 2, by deleting lines 1 to 16 in their entirety; and
By renumbering subsequent sections accordingly.

The Senate Floor Amendment No. 2 to **HB 300** is as follows:

On page 1, line 10 after "*a*" by deleting "*Class D felony*" and inserting "*criminal violation*" in lieu thereof.

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 300**. Agreed.

Representative Damron moved that the House concur in Senate Floor Amendment No. 2 to **HB 300**. Agreed.

Representative Damron moved that **HB 300**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2000 roll call on **HB 300** - Appendix.)

HB 300, as amended by the Senate, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 300**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 647, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 647** is as follows:

HB 647, AN ACT relating to the consolidation of local governments in counties containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The governmental and corporate functions vested in any city of the first class shall, upon approval by the voters of the county at a regular or special election, be consolidated with the governmental and corporate functions of the county containing the city. This single government replaces and supersedes the governments of the pre-existing city of the first class and its county.

(2) A consolidated local government shall have all powers and privileges that cities of the first class and their counties are, or may hereafter be, authorized to exercise under the Constitution and the general laws of the Commonwealth of Kentucky, including but not limited to those powers granted to cities of the first class and their counties under their respective home rule powers. A consolidated local government shall continue to exercise these powers and privileges notwithstanding repeal or amendment of any of the laws upon which the powers and privileges are based unless expressly repealed or amended for consolidated local governments. In addition, a consolidated local government shall have other powers and privileges as the government may be authorized to exercise under the Constitution and general laws of the Commonwealth of Kentucky.

(3) A consolidated local government shall have power and authority to:

- *(a) Levy and collect taxes upon all property taxable for state purposes within the territorial limits of the consolidated local government not exempt by law from taxation;*
- *(b) License, tax, and regulate privileges, occupations, trades, and professions authorized by law, to be uniform*

throughout the jurisdiction;

(c) Make appropriations for the support of the consolidated local government and provide for the payment of all debts and expenses of the consolidated local government and the debts and expenses of the county and city of which it is the successor;

(d) Issue or cause to be issued bonds and other debt instruments that counties containing a city of the first class are authorized to issue or enter into all other financial transactions as may be permitted by law;

(e) Purchase, lease, construct, maintain, or otherwise acquire, hold, use, and operate any property, real or personal, for any public purpose, and sell, lease, or otherwise dispose of any property, real or personal, belonging to a consolidated local government;

(f) Exercise the power of eminent domain for any public purpose subject to the limitations and exceptions prescribed by the Constitution and the general laws of the Commonwealth of Kentucky;

(g) Accept federal or state funds and other sources of revenue that are applicable to counties and cities of the first class;

(h) Establish, erect, maintain, and operate facilities for the confinement, detention, and rehabilitation of persons convicted of the violation of the ordinances and laws of a consolidated local government or the Commonwealth of Kentucky;

(i) Pass and enforce by fines and penalties, if necessary, all ordinances, not inconsistent with law, as are expedient in maintaining the peace, good government, health, and welfare of the inhabitants of the county and prevent, abate, and remove nuisances;

(j) Collect and dispose of garbage, junk, and other refuse, and regulate the collection and disposal of garbage, junk, and other refuse by others;

(k) Provide for the redevelopment, renewal, or rehabilitation of blighted, deteriorated, or dilapidated areas;

(l) Enforce zoning regulations;

(m) Enter into contracts and agreements with other governmental entities and with private persons, firms, and corporations;

(n) Adopt procedures for collective bargaining with its employees and for the certification of exclusive bargaining agents for groups of employees in accordance with the Constitution and general laws of the Commonwealth of Kentucky and its ordinances; and

(o) Exercise all other powers and authorities granted to counties and cities of the first class by the general laws of the Commonwealth of Kentucky.

(4) The powers of the consolidated local government shall be construed broadly in favor of the consolidated local government. The specific mention, or failure to mention, of particular powers in this section shall not be construed as limiting in any way the general or specific powers of a consolidated local government.

(5) A consolidated local government shall have power and jurisdiction throughout the total area embraced by the official jurisdictional boundaries of the county.

(6) A consolidated local government shall be known as Greater ...., which shall be the name of the largest city in existence on the date of the adoption of the consolidated government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The legislative authority of a consolidated local government, except as otherwise specified in Sections 1 to 19 of this Act, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.

(2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by Section 18 of this Act. The population of the council districts shall be as nearly equal as is reasonably possible. For any newly consolidated local governments whose officials take office in 2003, upon taking office, the legislative council may take action to adjust the boundaries and population of the districts in order to equalize the population of the districts which may have changed as a result of recent census information. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.

(3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.

(4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election except that the initial election of council members shall be in a manner as

to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.

(5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.

(6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least twenty-one (21) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.

(7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.

(8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least two (2) regular meetings per month.

(9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.

(10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.

(11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:

- *(a) Otherwise provided by statute; or*
- *(b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.*

(12) In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. Upon notification of the vacancy by the county clerk, the Governor shall appoint a person to fill a vacancy on the consolidated local government council not later than thirty (30) days after the date on which the vacancy occurs.

(13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:

- *(a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;*
- *(b) Review the budgets of and appropriate money to the consolidated local government;*
- *(c) Adopt a budget ordinance;*
- *(d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;*
- *(e) Establish standing and temporary committees; and*
- *(f) Make independent audits and investigations concerning the affairs of the consolidated local government.*

(14) The consolidated local government council shall be known as the legislative council of Greater ...., which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) All executive and administrative power of the government shall be vested in the office of the mayor. The term "executive and administrative power" shall be construed broadly. The mayor shall be the chief executive of a consolidated local government formed under the provisions of Sections 1 to 19 of this Act.

(2) The mayor shall be nominated and elected in partisan elections for a term of four (4) years in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth. The mayor shall assume office on the first Monday in January following his or her election. He or she shall serve until a successor

qualifies and may serve for no more than three (3) consecutive terms after which time he or she shall be prohibited from running for election or being appointed as mayor for a period of at least four (4) years.

(3) The mayor shall be at least twenty-five (25) years old, a qualified voter, a member of his or her political party, and a resident of the territory encompassing the consolidated local government for a period of at least one (1) year prior to his or her election as mayor. The mayor shall continue to reside within the geographic boundary of the consolidated local government throughout his or her term of office.

(4) Except as otherwise provided in Sections 1 to 19 of this Act, the mayor shall have all the power and authority that the mayor of the city of the first class and the county judge/executive exercised under the Constitution and the general laws of the Commonwealth of Kentucky prior to the consolidation.

(5) The mayor is authorized to supervise, administer, and control all departments and agencies as may be created by Sections 1 to 19 of this Act or created by ordinance. The mayor shall appoint all department and agency directors. The appointees shall serve at the pleasure of the mayor. Specifically, the mayor shall:

(a) Prepare and submit an annual report coinciding with the fiscal year, on the state of the consolidated local government, to be presented at a public meeting of the council;

(b) Submit an annual budget;

(c) Oversee the administration and implementation of the adopted budget ordinance;

(d) Enforce the ordinances of the consolidated local government;

(e) Supervise all officers, agents, employees, cabinets, departments, offices, agencies, functions, and duties of the consolidated local government;

(f) Call special meetings of the consolidated local government council;

(g) Appoint and remove his or her own staff at his or her own pleasure;

(h) Execute written contracts or obligations of the consolidated local government; and

(i) Approve or veto ordinances and resolutions adopted by the consolidated local government council.

(6) In case the office of mayor becomes vacant by reason of death, resignation, or removal, it shall be filled by appointment of the Governor, in accordance with Section 152 of the Constitution, for the unexpired term. The Governor shall appoint a person to fill a vacancy in the office of mayor not later than thirty (30) days after the date on which the vacancy occurs. If a vacancy occurs in the office of mayor, the members of the legislative body of the consolidated local government shall elect one (1) of their members to serve as temporary mayor until the Governor fills the vacancy in the office, notwithstanding the provisions of KRS 61.080(2) to the contrary.

(7) The mayor of a consolidated local government shall be known as the mayor of Greater ...., which shall be completed by the name of the largest city in existence in the county on the date of the consolidation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Upon public approval at a regular or special election of a consolidation of a city of the first class and their county, all regular employees of the city of the first class and the county shall become employees of the consolidated local government.

(2) All rights, privileges, and protections attributed to all regular employees by a civil service or classified service system established by a city of the first class or a county containing a city of the first class shall continue in effect until changed by statute or ordinance when applicable.

(3) A consolidated local government shall recognize and shall continue to bargain with any bargaining unit consisting of public employees recognized by either the previously existing city or county government.

(4) All labor contracts in existence in a city of the first class or a county containing a city of the first class on the effective date of a local government consolidation shall continue in effect until the expiration of the terms of the contracts at which time new contracts shall be renegotiated between the consolidated local government and affected labor representatives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

A consolidated local government shall be deemed a county and shall be deemed an incorporated city of the first class under the Constitution and the general laws of the Commonwealth of Kentucky for the purpose of applying for or receiving any aid or grant-in-aid from the Commonwealth of Kentucky or the government of the United States.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) All cities other than those of the first class located within the territory of the consolidated local government, upon the successful passage of the question to consolidate a city of the first class and its county, shall remain incorporated unless dissolved in accordance with KRS 81.094 and shall continue to exercise all powers and perform the functions permitted by the Constitution and general laws of the Commonwealth of Kentucky applicable to the cities of the class to which they have been assigned.

(2) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no further incorporations of cities within the county.

(3) Upon the adoption of a consolidated local government in a county containing a city of the first class, there shall be no annexations for a period of twelve (12) years by any city remaining in the county. After that time, any proposed annexation by a city in that county shall first receive the approval of the legislative council of the consolidated local government prior to the city proceeding under the provisions of KRS Chapter 81A. The city shall request the approval of the consolidated legislative council by ordinance. The consolidated legislative council's decision shall be made by ordinance and within sixty (60) days of the receipt of the request by the affected city. If an ordinance has not been enacted by the consolidated legislative council within sixty (60) days, the request for a city to proceed with an annexation proposal shall be deemed to be approved by the consolidated legislative council.

(4) The adoption of a consolidated local government in a county containing a city of the first class shall not prevent the merger or dissolution of any existing cities as provided by law or the merger of any remaining cities with the newly consolidated local government.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

All taxing districts, fire protection districts, sanitation districts, water districts, and any other special taxing or service districts of any kind existing upon the successful passage of the question to consolidate a city of the first class and its county shall continue in existence unless dissolved in the manner prescribed by law and shall continue to exercise all the powers and functions permitted by the Constitution and the general laws of the Commonwealth of Kentucky.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) Upon the successful passage of the question to consolidate a city of the first class and its county, the ordinances, regulations, and orders of the previously existing city of the first class and the county shall initially govern the consolidated local government along with any new ordinances, resolutions, or orders that may be enacted.

(2) Any ordinance, regulation, or order in effect in a city of the first class or its county on the date of the adoption of a consolidated local government shall expire five (5) years from the date the new government takes effect unless amended or reenacted by the new consolidated local government.

(3) The county attorney shall serve as the legal advisor and representative to the consolidated local government.

(4) The county attorney shall review all ordinances, resolutions, and orders in effect in the city of the first class and the county in order to identify conflicting language between the varying ordinances, resolutions, and orders. The county attorney shall present a listing of the conflicts between the ordinances, resolutions, and orders to the legislative body of the consolidated local government at its first meeting.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) (a) It shall be the policy of the consolidated local government to ensure that opportunities generated directly or indirectly by the consolidated local government are equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age.

(b) It shall also be the policy of the consolidated local government to include the minority community in all aspects of governance in the consolidated local government. Minority citizens and business shall be represented in all actions of the consolidated government, including but not limited to government employment, appointments to boards or commissions, contracting, and purchasing.

(2) The percentage of minority citizens who shall be employed by the consolidated local government or appointed to each of its boards and commissions shall be no less than the percentage of minority citizens in the community, or the percentage of minority representatives on the consolidated local government's legislative body, whichever is greater.

(3) The consolidated local government shall adopt ordinances and develop policies to achieve the mandate set forth in this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The consolidated local government shall have an affirmative action plan that complies with all current federal guidelines and requirements relevant to local governments.

(2) The mayor shall prepare and implement an affirmative action plan.

(3) There shall be established under the direction of the mayor an office that shall be called the "Affirmative Action Office."

(4) The Affirmative Action Office shall aid the mayor in preparing the plan, and shall be responsible for the day-to-day operation and implementation of the affirmative action plan.

(5) An affirmative action plan, in addition to following all federal requirements, shall include good faith efforts to:

(a) Determine the extent to which minorities and women are underutilized in major categories;

(b) Identify and eliminate the specific causes of the underutilization;

(c) Identify and eliminate all employment practices that have an adverse impact on minorities, women, and others protected by applicable law and the relationship of which to job performance has not been clearly established;

(d) Rely exclusively on practices that are based on merits and other valid job related criteria;

(e) Develop, substantial applicant pools of validly qualified minorities and women, special recruitment efforts, and other measures to insure that sufficient numbers of these groups are included to help reduce their underutilization;

(f) Develop, through special recruitment efforts and other measures, applicant pools in which handicapped persons are represented equitably;

(g) Project goals and timetables to include estimates of the representation of minorities and women likely to result from the operation of this affirmative action plan; and

(h) Establish organizational structures and monitoring systems that will ensure effective operation of its goals, and means for modification of the plan as needed.

(6) All contracts, leases, or other agreements for materials, supplies, equipment, or, contractual services other than professional that, in the aggregate, exceed ten thousand dollars ($10,000) in any calendar year shall be awarded in compliance with KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable.

(7) Notwithstanding anything to the contrary in this section, the provisions of this section shall apply to every person, firm, corporation, and association that has been awarded contracts, leases, or other agreements as provided by KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable, that, in the aggregate, exceed ten thousand dollars ($10,000) in any calendar year.

(8) Employment opportunities generated directly or indirectly by the government of the consolidated local government shall be equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age. In order to ensure that employment opportunities generated directly or indirectly by the consolidated local government are equally available, contractors and vendors shall be approved as provided by this section prior to the awarding of any contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars ($10,000) with the consolidated local government.

(9) No person, firm, corporation, or association shall be awarded a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars ($10,000) until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.

(10) No officer, employee, or agent of the consolidated local government shall accept a contract, lease, or other agreement that requires an expenditure in excess of ten thousand dollars ($10,000) with the consolidated local government until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.

(11) All persons, firms, corporations, or associations seeking to bid on contracts, leases, or other agreements that require an expenditure exceeding ten thousand dollars ($10,000) with the consolidated local government shall submit a request for prequalification as an eligible contractor, pursuant to the procedures and requirements enacted by ordinance by the consolidated local government.

(12) The consolidated local government shall make available a list of all bidders who have been prequalified and shall distribute the list to the appropriate purchasing officers, employees, or agents of the consolidated local government.

(13) Any person, firm, corporation, or association that submits an otherwise qualified bid for a contract, lease, or other agreement pursuant to the provisions of KRS 424.260, but that has not prequalified pursuant to this section, may be approved by the consolidated local government as provided by this section. Any person, firm, or corporation that is approved by the consolidated local government shall thereafter be qualified and considered eligible for award for a contract, lease, or other agreement.

(14) The consolidated local government shall prequalify persons, firms, corporations, and associations seeking a contract, lease, or other agreement that requires an expenditure exceeding ten thousand dollars ($10,000) with the consolidated local government if on an analysis of the workforce of that entity the consolidated local government determines that:

(a) The entity is not deficient in the utilization of minority groups or women;

(b) The entity has an acceptable, bona fide affirmative action plan;

(c) The entity is a small business that employs ten (10) or fewer individuals;

(d) The entity has a federally approved affirmative action program; or

(e) The consolidated local government has made a finding based on other reasonable criteria, and after consideration of the provisions of 41 C.F.R. 60-2, determines the entity does not require an affirmative action plan.

(15) An acceptable affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated

local government shall include:

(a) An analysis of the areas of the entity's workforce within which it is deficient in the utilization of minority groups and women; and

(b) Timetables to which the entity's good faith efforts shall be directed to correct the deficiencies and to achieve prompt and full utilization of minorities and women at all levels and in all segments of its workforce where deficiencies exist.

(16) A bona fide affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include a set of specific and result-oriented procedures, goals, and timetables to which an entity commits itself to apply every good faith effort in order to achieve equal employment opportunity. Procedures without effort to make them work are meaningless and effort undirected by specific and meaningful procedures is inadequate.

(17) In reviewing an affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government, the consolidated local government shall be guided by the relevant provisions of 41 C.F.R. 60-2 which outlines the requirements of affirmative action plans for federal contractors and vendors.

(18) The consolidated local government shall use its best efforts, directly and through contracting agencies, other interested federal, state, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work pursuant to contracts, leases, and agreements that are the subject matter of this section or any agency referring workers or providing or supervising apprenticeship or training for or in the course of this work to cooperate in the implementation of the purposes of this section.

(19) The consolidated local government on its own motion or on motion of any interested party shall cause hearings as it deems necessary for compliance or enforcement of this section.

(20) The consolidated local government shall hold a hearing prior to imposing or recommending the imposition of penalties and sanctions for violation of this section. No penalty that would prohibit any contractor from obtaining future contracts under this section shall be made without affording the contractor an opportunity for a hearing.

(21) Notice of any final decision or determination of the consolidated local government that affects the running of time for taking an appeal shall be mailed to all parties in the matter, including the proposed contractor, lessor or other party, and the affected local government offices.

(22) The consolidated local government shall establish an affirmative action appeals board for purposes of hearing appeals from any final decision relating to matters pertaining to this section. The board shall be composed of the county attorney, or his or her designee, the council president of the consolidated local government, or his or her designee, and a representative of the financial department of the consolidated local government, or his or her designee.

(23) Any appeal from a decision of the consolidated local government shall be hand-delivered or mailed by certified mail to the affirmative action appeals board not later than thirty (30) days from the date of the local government's decision. The appeal shall set forth the grounds for the appeal. The appeals board shall notify all parties in writing of the time and place of a hearing. The hearing committee may issue subpoenas for any witnesses requested by either of the parties or in the appeals board's opinion necessary to the proper disposition of the matter to be heard. All parties shall be allowed legal representation, witnesses may be cross-examined, and the proceeding shall be recorded. The local government shall transmit, within ten (10) days after receipt of notice of appeal, all the original papers in action to the appeals board.

(24) The appeals board shall have the power to require the contractor to furnish all necessary records and give testimony as to enable the board to render a fair and competent decision. The duty of the board shall be to review all records, hear all testimonies of witnesses, and determine whether the decision of the local government was correct. The decision of the appeals board shall be final. The decision of the appeals board shall be transmitted in writing to the appropriate offices of the local government for implementation and shall set forth specifically its findings of fact and conclusions relative to its determination. The administration of sanctions and penalties in accordance with that determination shall be the duty of the appropriate department or contracting agency of the consolidated local government.

(25) (a) On request of the adversely affected party the appeals board may, on terms as are just, relieve a party from its final order of determination on the following grounds:

1. Mistake, inadvertence, surprise, or excusable neglect;
2. Newly discovered evidence that by due diligence could not have been discovered in time for the hearing;
3. Perjury or falsified evidence; or
4. Fraud affecting the proceedings other than perjury or falsified evidence.

(b) The request shall be made within thirty (30) days after notification of the appeals board's final determination. A request under this subsection does not affect the finality of the order or determination or suspend its operation.

(26) In accordance with the enforcement provisions of this section, the consolidated local government may cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract, lease, or agreement that is the subject matter of this section for failure of the contractor or vendor to comply. Contracts, leases, and agreements may

be canceled, terminated, or suspended absolutely or continuance of contracts, leases, and agreements may be conditioned on a program for future compliance as approved by the consolidated local government.

(27) Any contracting agency shall refrain from entering into further contracts or extensions or other modifications of existing contracts, with any noncomplying contractor, until the contractor has established and will carry out personnel and employment policies in compliance with the provisions of this section.

(28) Whenever the consolidated local government makes a determination regarding noncompliance by a contractor pursuant to this section, it shall promptly notify the appropriate contracting agency and other affected local government agencies and offices of the action recommended. The contracting agency shall take the action recommended and shall report the results of that action to the consolidated local government.

(29) If the appeals board shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the consolidated local government.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) All offices provided for in Section 99 of the Constitution of Kentucky shall remain in existence upon the consolidation of a city of the first class with its county. However, all existing powers and duties of these offices shall be assigned to the consolidated local government. To the extent permitted by the Constitution of Kentucky, the office of county judge/executive, justices of the peace, and county commissioners may be statutorily limited in a consolidated local government.

(2) Nothing in Sections 1 to 19 of this Act shall alter or affect the election or term of any county court clerk, county attorney, sheriff, jailer, coroner, surveyor, or assessor. Nor shall any provision of Sections 1 to 19 of this Act be construed to alter or affect the powers, duties, or responsibilities of these officers as prescribed by the Constitution and laws of the Commonwealth of Kentucky. Any funding responsibilities or oversight of any constitutional officers or their employees previously exercised by the county, which shall include the approval of the annual budget of the sheriff's and the county clerk's offices, shall be transferred to the consolidated local government.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of Sections 1 to 19 of this Act or any subsequent enactment of a general nature of the General Assembly of the Commonwealth of Kentucky, a consolidated local government shall not levy any tax on real property at a rate or rates in excess of that allowed by KRS 68.245 and KRS 132.027. The limitations in those statutes shall apply to the consolidated local government in the same manner as applied to all other counties and cities.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

Any cooperative compact in existence in a county containing a city of the first class on the effective date of this Act shall remain in effect unless a consolidated local government is adopted as provided in Sections 1 to 19 of this Act. The terms and agreements within a cooperative compact shall remain the same and in effect until the installation of the officers of the newly consolidated local government. If the voters in a county containing a city of the first class fail to approve a proposal for a consolidated local government then the cooperative compact shall remain in effect for the duration of the terms of the compact agreement.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The salary of the mayor of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be the same as that allowed for a mayor of a city of the first class as provided by Section 246 of the Kentucky Constitution.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) The salary of the members of the legislative council of a newly consolidated local government created by the provisions of Sections 1 to 19 of this Act shall be eighty percent (80%) of that amount that is permitted for county commissioners on the effective date of this Act as provided by Section 246 of the Kentucky Constitution. In order to equate the compensation of legislative council members with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.

(2) Each legislative council member may hire one (1) full-time staff person.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

The Auditor of Public Accounts, in order to insure the authorized, legal, regular, and safe handling, administration, or expenditure of public funds, shall annually audit the funds budgeted by any consolidated local government in a county containing a city of the first class. Actions taken by the Auditor and the local government for compliance with this section shall be the same as those required by KRS Chapters 43 and 424 and by KRS 43.070, 64.810, 64.820, 64.830, 64.840, and 64.850 relating to financial administration and the responsibilities of the handling of public funds.

SECTION 18. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) After certification of the election at which the voters of a county containing a city of the first class have approved the consolidation of a city of the first class and the county and after receipt of the 2000 census data, a plan to divide the county into twenty-six (26) legislative council districts shall be submitted to the fiscal court in order to establish the initial boundaries of the legislative council districts for the newly consolidated government.

(2) The district plan for the legislative council shall be prepared and submitted by representatives of a department of geography from the largest public university that exists within the county.

(3) Upon submission of the plan that lays out the initial boundaries of the legislative council districts, the fiscal court shall approve the plan within thirty (30) days as submitted and without amendment.

(4) The boundaries of the districts shall be drawn so that the districts are compact and contiguous, and the population of each district shall be as nearly equal as is reasonably possible.

(5) Thereafter, and not less than every ten (10) years, the legislative council shall initiate reapportionment proceedings in May of the first year following the decennial census of the United States to review the districts and reapportion them if necessary.

(6) To initiate a reapportionment proceeding, the legislative council shall publish notice of the planned reapportionment in accordance with KRS Chapter 424.

(7) In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for local government office as provided in KRS 118.165 and the regular election for candidates for local government office.

(8) Precinct lines shall be drawn when necessary in accordance with the provisions of law. No precinct shall be in more than one (1) district.

(9) Within twenty (20) days of the establishment of the districts by the legislative council, any registered voter of the county may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the legislative council has violated the provisions of this section, remand the matter to the legislative council. The Circuit Court, in its discretion, may allow the prevailing party, other than the legislative council, a reasonable attorney's fee, to be paid from the treasury of the local government, as part of the costs.

SECTION 19. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

(1) In every county containing a city of the first class in existence on the effective date of this Act, a question regarding the consolidation of the city of the first class and their county as provided by Sections 1 to 19 of this Act shall be submitted to the voters of the county at the regular election to be held in November of 2000. The election shall be governed by the general election laws of the Commonwealth. Approval of the proposal shall require a simple majority of those voting on the question.

(2) The question to be submitted to the voters shall read as follows:

"Are you in favor of combining the City of .... and .... County into a single government with a mayor and legislative council, keeping all other cities, fire protection districts and special districts in existence?"

Section 20. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

Representative Marzian moved that the House concur in Senate Committee Substitute to **HB 647**. Agreed.

Representative Marzian moved that **HB 647**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 85, Nays 10**. (See March 21, 2000 roll call on **HB 647** - Appendix.)

HB 647, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 647**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 120, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 120** is as follows:

On page 7, line 14, after the word "maintenance", by inserting the words "***or railroad maintenance or repairs***"

Representative Graham moved that the House concur in Senate Committee Amendment No. 1 to **HB 120**. Agreed.

Representative Graham moved that **HB 120**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 21, 1998 roll call on **HB 120** - Appendix.)

HB 120, as amended by the Senate, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 120**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 595, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 595** is as follows:

On page 3, after line 21 by adding
"SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:
The requirements set forth in Section 1 and 2 of this Act shall not apply to any bank licensed to do business in the Commonwealth."

Representative Bruce moved that the House concur in Senate Committee Amendment No. 1 to **HB 595**. Agreed.

Representative Bruce moved that **HB 595**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 21, 1998 roll call on **HB 595** - Appendix.)

HB 595, as amended by the Senate, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 595**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 62, HB 85, HB 294, HB 431, HB 482, HB 780, and **HCR 54** delivered to the Senate and signed by the President. Delivered to the Governor on March 21, 2000, at 4:18 p.m.

Orders of the Day (Continued)

HB 290, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 290** is as follows:

HB 290, AN ACT relating to certified professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.515 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 335.500 to 335.599 and shall evaluate the qualifications of applicants for certification.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of KRS 335.500 to 335.599.

(3) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to carry out and enforce the provisions of KRS 335.500 to 335.599, including the establishment of fees.

(4) The board may conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the

function of KRS 335.500 to 335.599.

(5) The board may issue certificates to qualified candidates.

(6) The board may renew certificates and may require up to ten (10) continuing education hours as a condition for renewal each year.

(7) The board may suspend or revoke certificates, impose supervisory or probationary conditions upon certificate holders, impose administrative disciplinary fines, issue written reprimands and admonishments, or perform any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to enjoin violation of KRS 335.505(1).

(9) The board may grant retired status or inactive status to a certificate holder under conditions set out in administrative regulations promulgated by the board.

(10) The board may employ persons as necessary to carry on its work and shall define those person's duties and fix their compensation.

(11) The board shall promulgate by administrative regulation a code of ethics for and standards of practice of certified professional counselors.

(12) The board may enter into reciprocal agreements with certified professional counseling boards ***or licensed professional counseling boards***~~[in other states with certification qualifications and requirements as high as Kentucky's]~~.

SECTION 2. A NEW SECTION OF KRS 335.500 TO 335.599 IS CREATED TO READ AS FOLLOWS:

(1) The board shall certify an applicant for endorsement who:

- ***(a) Has received a master's, specialist, or doctoral degree in counseling or a related field from a regionally accredited institution with graduate coursework in the following:***
  - ***1. The helping relationship, including counseling theory and practice;***
  - ***2. Human growth and development;***
  - ***3. Lifestyle and career development;***
  - ***4. Group dynamics, process, counseling, and consulting;***
  - ***5. Assessment, appraisal, and testing of individuals;***
  - ***6. Social and cultural foundations, including multicultural issues;***
  - ***7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;***
  - ***8. Research and evaluation; and***
  - ***9. Professional orientation and ethics;***
- ***(b) Holds an active valid license or certificate from another state to practice as a professional counselor;***
- ***(c) Is in good standing with the certifying or licensing board of that state;***
- ***(d) Is of good moral character;***
- ***(e) Has paid the application fee to the board; and***
- ***(f) Has provided the board with evidence of a minimum of three (3) years experience as a certified or licensed professional counselor.***

(2) The applicant shall be exempt from:

- ***(a) The required hours of supervised experience in the practice of counseling set out in KRS 335.525(1)(e); and***
- ***(b) The examination requirement set out in KRS 335.525(1)(f).***

Section 3. KRS 335.525 is amended to read as follows:

(1) The board shall issue a "professional counselor" certificate to an applicant who:

- (a) Has paid the application fee and the appropriate examination fee to the board;
- (b) Is of good moral character;
- (c) Has received a master's***, specialist,*** or doctoral degree in counseling ***or a related field*** from a regionally-accredited institution;
- (d) Has completed a minimum of sixty (60) graduate semester hours in the following:
  - 1. The helping relationship, including counseling theory and practice;
  - 2. Human growth and development;
  - 3. Lifestyle and career development;
  - 4. Group dynamics, process, counseling, and consulting;

5. Assessment, appraisal, and testing of individuals;
6. Social and cultural foundations, including multicultural issues;
7. Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
8. Research and evaluation; and
9. Professional orientation and ethics;

(e) Has completed a minimum of three thousand (3,000) hours of experience in the practice of counseling, two thousand (2,000) hours of which must have been obtained since obtaining the master's degree and must be under approved supervision. The experience shall have been performed under the general supervision of an approved supervisor and shall include, but not be limited to, a minimum of one thousand two hundred (1,200) hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred (100) hours of individual, face-to-face weekly clinical supervision with an approved supervisor. Up to one thousand (1,000) hours of the supervised experience may be obtained from a supervised practicum or internship. After January 1, 1998, all previously uncertified applicants shall complete an organized practicum or internship consisting of at least four hundred (400) hours; and

(f) Has achieved passing scores on all portions of the examinations required by the board.

(2) The application fee for certification and the examination fee shall be established pursuant to administrative regulation promulgated by the board.

Representative Treesh moved that the House concur in Senate Committee Substitute to **HB 290**. Agreed.

Representative Treesh moved that **HB 290**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 21, 2000 roll call on **HB 290** - Appendix.)

HB 290, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 290**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 61, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HJR 61** is as follows:

On page 2, line 10, after "2." delete the rest of the line entirely;

On page 2, line 11, delete the line entirely; and

On page 2, line 12, delete "shall revert to the general fund.".

The Senate Committee Amendment No. 2 to **HJR 61** is as follows:

On page 2, line 7, delete "and"; and

On page 2, line 9, after "Park" insert the following: ";

(4) The feasibility and cost of constructing a state park lodge at Nolin State Park; and

(5) The feasibility and cost of purchasing land and establishing a state park in the Barren River Area Development District".

The Senate Committee Amendment No. 3 Title to **HJR 61** is as follows:

Amend the title to read as follows: "A JOINT RESOLUTION authorizing and directing the University of Kentucky, the Bluegrass Area Development District, and the Lake Cumberland Area Development District to conduct a study relating to the feasibility of establishing a state park and the cost of constructing state lodges at Lake Herrington and at General Burnside Island State Park.".

Representative Napier moved that the House concur in Senate Committee Amendment No. 1 to **HJR 61**. Agreed.

Representative Napier moved that the House concur in Senate Committee Amendment No. 2 to **HJR 61**. Agreed.

Representative Napier moved that **HJR 61**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 21, 1998 roll call on **HJR 61** - Appendix.)

HJR 61, as amended by the Senate, was passed.

Representative Napier moved that the House concur in Senate Committee Amendment No. 3 Title to **HJR 61**. Agreed; and the title was agreed to.

Representative Napier moved that the vote by which **HJR 61**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 472, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 472** is as follows:

On page 4, line 9, after "*event;*" by inserting "*and*"; and

On page 4, line 11, after the initials "*p.m.*", by deleting "*; and*" and inserting a period "." in lieu thereof; and

On page 4, by deleting lines 12 and 13 in their entirety.

Representative D. Butler moved that the House concur in Senate Committee Amendment No. 1 to **HB 472**. Agreed.

Representative D. Butler moved that **HB 472**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 54, Nays 36**. (See March 21, 1998 roll call on **HB 472** - Appendix.)

HB 472, as amended by the Senate, was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 472**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **SB 335, SB 69, SB 263, SB 314,** and **SB 209**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **SB 2, SB 155, SB 396,** and **HJR 145**. Agreed.

Representative Stumbo moved that **SB 152** be taken from the Clerk's Desk and placed in the Orders of the Day for March 22, 2000. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 22, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 171, by Representative Upchurch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James A. "Jim" Hill.

HR 172, by Representatives Nesler, Collins, Palmer, Palumbo, J. Arnold, D. Butler, Stewart, Scott, Gray, Polston, Alexander, Tapp, Ausmus, Buckingham, Coleman, Ballard, C. Belcher, and Bowling: A RESOLUTION recognizing Kentucky's Drive Smart Program.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **SB 197**

Transportation: **SB 69**

Economic Development: **SB 115, SB 216, SB 394, SCR 111, SCR 113**

Banking and Insurance: **HR 156**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Education: **HB 117**

Motions, Petitions, and Communications (Continued)

Representative C. Belcher moved that the vote by which **SB 36**, as amended, was defeated be reconsidered.

On the roll call the vote was: **Yeas 60, Nays 19**. (See March 21, 2000 roll call on the motion that **SB 36**, as amended, was defeated be reconsidered-Appendix.)

The motion that **SB 36**, as amended, was defeated be reconsidered was adopted.

Representative Nunn moved the adoption of the following **HR 163**:

HR 163, A RESOLUTION in support of Huntington's Disease awareness.

WHEREAS, Huntington's Disease is a devastating, degenerative brain disorder for which there is, at present, no effective treatment or cure. Huntington's Disease slowly diminishes the affected individual's ability to walk, think, talk, and reason. Eventually, the person with Huntington's Disease becomes totally dependent upon others for care. Huntington's Disease profoundly affects the lives of entire families, emotionally, socially, and economically; and

WHEREAS, Huntington's Disease is named for Dr. George Huntington, who first described this hereditary disorder in 1872. Huntington's Disease is now recognized as one of the more common genetic disorders, and more than a quarter of a million Americans have, or are at risk of inheriting, the disease from an affected parent. Huntington's Disease affects as many people as Hemophilia, Cystic Fibrosis, or Muscular Dystrophy; and

WHEREAS, early symptoms of Huntington's Disease may affect cognitive ability or mobility and include depression, mood swings, forgetfulness, clumsiness, involuntary twitching, and lack of coordination. As the disease progresses, concentration and short-term memory diminish, and involuntary movements of the head, trunk, and limbs increase. Walking, speaking, and swallowing abilities deteriorate. Eventually, the person is unable to care for him or herself, and death follows from complications such as choking, infection, or heart failure; and

WHEREAS, Huntington's Disease typically begins in mid-life, between the ages of 30 and 45, though onset may occur as early as the age of two. Children who develop the juvenile form of the disease rarely live to adulthood. Huntington's Disease affects males and females equally and crosses all ethnic and racial boundaries. Each child of a person with Huntington's Disease has a 50-50 chance of inheriting the fatal gene. Everyone who carries the gene will develop the disease. In 1993, the Huntington's Disease gene was isolated and a direct genetic test developed which can accurately determine whether a person carries the Huntington's Disease gene. The test cannot predict when symptoms will begin, however, in the absence of a cure, some individuals at risk elect not to take the test; and

WHEREAS, since the discovery of the gene that causes Huntington's Disease, scientific research has accelerated and much has been added to our understanding of Huntington's Disease and its effects upon different individuals. By continuing to increase our investment in both clinical and basic Huntington's Disease research each year, breakthroughs in treatment and a cure will be forthcoming;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby urges public awareness through increased public education on the causes, symptoms, and treatments of Huntington's Disease.

Section 2. The House of Representatives encourages the Cabinet for Health Services to perform outreach activities to educate people with Huntington's Disease and their loved ones about access to quality health care, affordable health insurance coverage, long-term care alternatives, and disability rights.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Barbara T. Boyle, Executive Director and CEO of the Huntington's Disease Society of America, 158 West 29th Street, 7th floor, New York, N.Y. 10001-5300; Ms. Mary Jo Murphy, President, Kentucky Chapter of the Huntington's Disease Society, c/o Kosair Charities Center, 982 Eastern Parkway, Louisville, Kentucky 40217; and to the Secretary of the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40601.

There being no objection **HR 163** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 129**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Benjamin Clark and to express deepest sympathy to his devastated family and all who share in the loss through the tragic and untimely passing of this young man, the beloved son of Mickey and Gloria Collins Clark; brother of Bryan "B.J." Clark; grandson of Eual and Freida Collins and Grace Clark and the late Cletus Clark; the nephew of six aunts and uncles; and the cherished friend of many in the Graves County community. A junior at Graves County High School, he was an active member of the Eagles varsity baseball team, Postponing Sexual Involvement, Students Taking on a Promise, Future Business Leaders of America, Teen Leadership Conference and the Prom Committee. He was also a member of Symsonia Baptist Church and the American Legion Post #26 baseball team. He will be forever held dear in the hearts of his family and friends and will be long remembered as an energetic and involved young man of great potential. The members of this august body do solemnly join with Representative Fred Nesler in remembering Benjamin Clark today, expressing profound regret for the loss of this cherished young man and extending sincere condolences to his loving family and friends. Done in Frankfort, this twenty-first day of March, in the year two thousand.

Legislative Citation No. 129 was adopted without objection.

Representative Stumbo moved that **HCR 154** be reassigned to the Committee on Natural Resources and Environment and that the three day posting requirement be waived. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 130**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Clifford Eugene Wright and offers its sincerest condolences to the Wright Family and to all those who share in the loss of this distinguished Kentucky citizen. The beloved husband of Barbara Lakin Wright; the devoted father of Jane Wright Shrout, Marsha Wright Sherman, and Suzanne Wright Gore; cherished grandfather of six grandchildren and one great-grandchild; and the loving brother of Winifred Ball and Adrienne Moore. The son of the late Homer and Nona Wright, he was preceded in death by two brothers, Homer Wright, Jr. and his twin, Chelsey Wright. This esteemed gentleman was a retired jeweler and owner of Wright's Jewelry in Prestonsburg, Kentucky. He was a member of Zebulon Lodge 3273, and a former member of the Floyd County Rescue Squad and the Prestonsburg City Council. Mr. Wright will long be remembered for the honesty and integrity with which he lived his life and for the generosity of spirit he exhibited to his fellow citizens. The members of this most honorable body join with Representative Gregory D. Stumbo in adjourning this legislative day in memory and honor of this highly-regarded Kentucky citizen for the contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this twenty-first day of March, in the year two thousand.

Legislative Citation No. 130 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 128**.

It is the intention of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of Albert LaFayette Gregory and Josephine York Gregory and to respectfully join with Representative Jim Stewart in expressing its deepest sympathy to all who share in the loss of this devoted couple who died within six weeks of each other; Albert LaFayette Gregory passing away on December 20, 1999 and Josephine York Gregory passing away on February 17, 2000. Married for nearly fifty-three years, they were members of the Wayman Chapel AME Church and were devoted not only to each other, but to their beloved children, Shirley White; Brenda J. Gregory, Benetta Ann Hopkins, James D. Gregory, Isaac Stanley Gregory, Albert Gregory, Jr. and Myron D. Gregory; their cherished grandchildren, great-grandchildren; and their dear siblings and other family members. Mr. Gregory, a U.S. Army Veteran of World War II and a member of the Tri-County Masonic Lodge #174 F&AM, was a former coach and teacher in the Knox County School system for over thirty years. Mrs. Gregory served on the steward board and as a trustee at the Wayman Chapel AME Church. Honored and remembered on this day as outstanding citizens of this Commonwealth, Albert and Josephine Gregory will be sorely missed by all those whose lives were touched by their tender presence. Done in Frankfort, this twenty-first day of March, in the year two thousand.

Legislative Citation No. 128 was adopted without objection.

Senate Message (Continued)

Announcing passage of **SB 350, SB 372, HB 87, HB 88, HB 89, HB 130, HB 141, HB 259, HB 301, HB 335, HB 506, HB 540, HB 692,** and **HCR 112**. (Time: 4:50 p.m.)

Message in regard to **HB 360**: The Senate has passed **HB 360** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 438**: The Senate has passed **HB 438** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Motions, Petitions, and Communications (Continued)

Representative Gray moved that he become the sponsor of **HB 331**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that he be recorded as voting "yea" on **HB 166**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 76**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 120**. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palmer moved that he be recorded as voting "yea" on **HB 358** and **HB 143**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 449**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 10**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **HB 300**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 10**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Yonts moved that his vote be changed from "nay" to "yea" on Floor Amendments 6, 29, and 34 to **HB 992**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 819** and **HB 711**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 300**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **SB 34, SB 265, SB 56, SB 100, SB 65, SB 143, SB 111, SB 272, SB 166, SB 240, SB 233, SB 107, SB 174, SB 53, SB 91, SB 202, SB 58, SB 51, SB 128,** and **SB 125**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 288, HB 789, HB 852, HB 502, HB 430, HB 213, HB 181, HB 144, HB 267, HB 316, HB 159, HB 178, HB 182, HB 278, HB 421, HB 564, HB 588, HB 892, HB 979, HB 1011, HB 576, HB 577, HB 739, HB 538, HJR 121, HJR 83, HJR 84, HJR 85, HJR 142, HB 818, HB 850, HB 855, HB 859, HB 824, HB 844, HB 895, HB 902, HB 923, HB 950,** and **HB 930**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "nay" on **HB 566, HB 788, HB 877,** and **HB 827**. Agreed.

Representative Burch moved that House Floor Amendment No. 3 to **SB 279** be withdrawn. Agreed.

Representative Marzian moved that House Floor Amendment No. 1 and House Floor Amendment No. 2 Title to **SB 232** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to **SB 326**, by Representative Vincent:

On page 4, line 1, by inserting brackets around and striking through "eight" and "($8)", and by inserting "***ten***" before "eight" and "***($10)***" before "($8)".

Floor Amendment No. 5 to **SB 74**, by Representative Palumbo:

On Page 3, after Line 26 by inserting the following:

"Section 2. KRS 67A.160 is amended to read as follows:

The procedure for a referendum authorized by KRS 97.590 shall be as follows:

(1) A public parks purchase and maintenance program proposal authorized by KRS 97.590 may be submitted to the voters of an urban-county by either a resolution of the legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out the matters specified in KRS 97.590(1). The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the effect or impact of the proposal.

(2) Petitions shall be signed by registered voters of the urban-county government equal in number to at least ten percent (10%) of the total number of votes cast in the urban-county in the last regular mayoral election of the urban-county government.

(3) If, not later than ninety (90) days preceding the day established for a regular election, the county clerk receives a resolution adopted by a three-fifth's (3/5) vote of the legislative body of the urban-county government requesting that the question be submitted to the voters or determines that a petition submitted in accordance with this section is sufficient, the legal department of the urban-county government shall prepare to place before the voters of the urban-county government at the next regular election the question, which shall appear on the ballot in the following form:

"( ) FOR RATIFICATION OF (summary of proposed program)
( ) AGAINST RATIFICATION OF (summary of proposed program)"

The county clerk shall cause to be published not fewer than three (3) times within thirty (30) days of the election, in a newspaper having a general circulation in the territory of the urban-county government, notice of the referendum, the exact language of the proposal, and a map prepared by the urban-county government showing the general location of the properties that may be purchased and the public parks that may be maintained under the program.

(4) The provisions of general election law shall apply to a referendum conducted under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor of the urban-county government and the certificate shall be entered upon the records of the urban-county government during the next regular meeting of the urban-county government legislative body. If a proposed program is approved, it shall become effective at the time specified in the proposal, but the effective date shall not be before the first day of January following the election.

(5) After complying with the provisions of this section and Section 2 of this Act, a purchase of development rights program authorized by KRS 67A.843 and KRS 67A.845 may include a public parks and maintenance program proposal authorized by KRS 97.590. In the case of a combined proposal, the urban-county government shall place before the voters a single ballot proposal that combines the purchase of development rights proposal and the public parks purchase and maintenance proposal. In that event, the proposal shall specify which tax levy or portion thereof shall provide funding for the purchase of development rights program proposal and which shall provide funding for the purchase of parks and maintenance program.

Section 3. KRS 67A.847 is amended to read as follows:

The procedure for a referendum authorized by KRS 67A.843 shall be as follows:

(1) A purchase of development rights program proposal authorized by KRS 67A.843 and 67A.845 may be submitted to the voters of an urban-county by either a resolution of the legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out the matters specified in KRS 67A.843(1). The proposal shall be drafted in

such a way that a vote in favor of adoption shall be a vote in favor of the proposal.

(2) Petitions shall be signed by registered voters of the urban-county government equal in number to at least ten percent (10%) of the total number of votes cast in the urban-county in the last regular mayoral election of the urban-county government.

(3) If, not later than ninety (90) days preceding the day established for a regular election, the county clerk receives a resolution adopted by a three-fifths (3/5) vote of the legislative body of the urban-county government requesting that the question be submitted to the voters or determines that a petition submitted in accordance with this section is sufficient, the legal department of the urban-county government shall prepare to place before the voters of the urban-county government at the next regular election the question, which shall appear on the ballot in the following form:

"( ) FOR RATIFICATION OF (summary of proposed program)
( ) AGAINST RATIFICATION OF (summary of proposed program)".

The county clerk shall cause to be published, not fewer than three (3) times within the thirty (30) day period immediately preceding the election in a newspaper having a general circulation in the territory of the urban-county government, notice of the referendum, the exact language of the proposal, and a map prepared by the urban-county government showing the general location of the properties from which development rights may be purchased under the program.

(4) The provisions of general election law shall apply to a referendum conducted under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor of the urban-county government and the certificate shall be entered upon the records of the urban-county government during the next regular meeting of the urban-county government legislative body. If a proposed program is approved, it shall become effective at the time specified in the proposal, but the effective date shall not be before the first day of January following the election.

(5) After complying with the provisions of this section and Section 1 of this Act, a purchase of development rights program authorized by KRS 67A.843 and KRS 67A.845 may include a public parks and maintenance program proposal authorized by KRS 97.590. In the case of a combined proposal, the urban-county government shall place before the voters a single ballot proposal that combines the purchase of development rights proposal and the public parks purchase and maintenance proposal. In that event, the proposal shall specify which tax levy or portion thereof shall provide funding for the purchase of development rights program proposal and which shall provide funding for the purchase of parks and maintenance program.

Section 4. KRS 97.590 is amended to read as follows:

(1) For the purpose of purchasing and maintaining public parks within the jurisdictional limits, cities of any class, counties, charter counties, and urban-county governments may levy taxes not exceeding five cents ($0.05) on each one hundred dollars ($100) of all taxable property within the corporate limits***, subject only to the aggregate limits on property taxes set forth in the Kentucky Constitution, but not subject to the recall provisions of KRS 132.017***. No city, county, charter county, or urban-county government shall levy the tax until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 in the case of a city, county, or charter county or in accordance with the provisions of KRS 67A.160 in the case of an urban-county government and has been adopted by the city's, county's, charter county's, or urban-county government's voters. The public referendum provisions in this section shall not apply to any city, county, charter county, or urban-county government that has in effect on July 15, 1998, a tax for park purposes in accordance with this section or KRS 97.550.

(2) The funds derived from the levy shall be held by the treasurer of the city or the treasurer of the county in a separate and distinct fund designated the "Park Fund***.***~~[,]~~" ***The funds***~~[and]~~ shall be paid out by the treasurer only upon order issued by the park board signed by the secretary and countersigned by the president after the bill for the withdrawal has been approved by the board***, unless a park board has not been appointed under KRS 97.550 to KRS 97.600, in which case the funds shall be appropriated by the city legislative body, the fiscal court, or the legislative body of the charter county government or urban-county government for purposes consistent with the levy***. The treasurer shall not honor in any one (1) year orders for a greater sum than the amount apportioned and levied for that year for park and playground purposes.".

Floor Amendment No. 6 to **SB 74**, by Representative A. Arnold:

On page 3, after line 26, add the following:

"Section 2. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, consistent with the provisions of subsection (3) of this section, not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants, and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants, and expenses, in counties having a population of seventy thousand (70,000) or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third, or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year; in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year; and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974; and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than ***six thousand dollars ($6,000)***~~[three thousand six hundred dollars ($3,600)]~~ annually or ***five***~~[three]~~ hundred dollars ***($500)***~~[($300)]~~ per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.".

Floor Amendment No. 1 to **SB 52**, by Representative Vincent:

On page 1, line 3, before "***A parent***" insert "***(1)***"; and

On page 1, line 6, delete "***(1)***" and insert in lieu thereof "***(a)***"; and

On page 1, line 9, delete "***(2)***" and insert in lieu thereof "***(b)***"; and

On page 1, between lines 11 and 12, insert:

"***(2) Any part of a decedent child's estate prevented from passing to a parent, under the provisions of subsection (1) of this section, shall pass through intestate succession as if that parent has failed to survive the decedent child.***"

Floor Amendment No. 1 to **SB 217**, by Representative A. Arnold:

On page 1, after line 21 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court in a county with a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county may, through the adoption of an ordinance in accordance with KRS 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within the county:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal court has merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created whose board of directors and taxing authority are not transferred to the emergency services board, and no boundary of

a district shall exceed the boundary of the county that the emergency services district represents.

(3) An emergency services board's jurisdiction shall encompass the boundaries of the special districts whose boards and taxing authority it is replacing.

(4) An emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If an emergency services board chooses to levy the tax allowed in Section 7 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) An emergency services board may be dissolved or the boundaries of the districts it represents may be altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any unattributable debt shall be assumed by the fiscal court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more fiscal courts of which one (1) county shall have a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county may, through the adoption of concurrent ordinances in accordance with KRS 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within their counties:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal courts have merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created in any of the member counties whose administration and taxing authority are not transferred to the emergency services board, and no boundary of a district shall exceed the boundaries of the counties that the multicounty emergency services district represents.

(3) A multicounty emergency services board's jurisdiction shall encompass the boundaries of the special districts within the member counties whose boards and taxing authority it is replacing.

(4) A multicounty emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If a multicounty emergency services board chooses to levy the tax allowed in Section 7 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk of each member county who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) A multicounty emergency services board may be dissolved or the boundaries altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any unattributable debt shall be assumed equally by each fiscal court formerly participating in the multicounty emergency services board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board shall be a corporate public body and a political subdivision of the Commonwealth. It may prosecute and defend suits, hire necessary employees, and perform all acts necessary to carry on the work of providing fire fighting, emergency ambulance, and rescue squad services to the community.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of one (1) county shall be controlled and managed by a board of directors appointed by the county judge/executive with the approval of the fiscal court.

(2) The county judge/executive shall appoint:

(a) One (1) member from each magisterial district of the county; and

(b) One (1) additional member from the county at large.

(3) (a) If the board is composed of a number evenly divisible by four (4):

1. One-fourth (1/4) of the board members' initial terms shall be one (1) year;

2. One-fourth (1/4) of the board members' initial terms shall be two (2) years;

3. One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

4. One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(b) If the board is composed of a number unevenly divisible by four (4), then the county judge/executive shall appoint the remainder for a term of four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive shall serve as an ex officio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of more than one (1) county shall be controlled and managed by a board of directors consisting of no more than eleven (11) members, with the number of members to be determined jointly by the county judges/executive of the member counties.

(2) The county judge/executive of each member county shall be entitled to appoint a proportionate share of the board relative to the population of the county according to the most recent federal census estimates of the year in which appointments are to be made with the approval of their respective fiscal courts. With the exception of the expiration of the initial appointment at the creation of the emergency services board, each year an appointment term expires the county judges/executive shall determine which county judge/executive, according to the adjusted population count, shall be allowed to make an additional appointment with the approval of his or her fiscal court. Each member county shall be allowed at least one (1) appointee. In no instance shall the emergency services board encompass more than eleven (11) counties.

(3) (a) One-fourth (1/4) of the board members' initial terms shall be one (1) year;

(b) One-fourth (1/4) of the board members' initial terms shall be two (2) years;

(c) One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

(d) One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county he or she represents.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive of each county shall serve as an ex officio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

(12) Vacancies in unexpired terms shall be filled by the appointing authority for the remainder of the unexpired term. No reapportionment, in accordance with the provisions of subsection (2) of this section, shall be executed in the instance of a vacancy in an unexpired term.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services board may levy an ad valorem tax not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district. The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this section, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in Section 2 or 3 of this Act.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board may contract with private and public entities to provide fire, ambulance, and emergency squad services.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Once an emergency services board assumes control over fire, ambulance, or emergency squad districts, a fiscal court, or fiscal courts through an interlocal agreement, may opt to provide fire, ambulance, and emergency squad services directly or through an agency of county government. If that is the case, a dedicated ad valorem tax for the provision of fire, ambulance, and emergency squad services exclusive of all other taxes may be levied by the county or counties. The provisions of the ad valorem tax of Section 7 of this Act shall apply.

(2) The initial levy of the ad valorem tax for the provision of funding to the emergency services board under this section shall not be subject to the recall provisions of KRS 68.245 or 132.023, whichever is applicable. Subsequent changes to the amount shall be subject to the provisions of KRS 68.245 or 132.023, whichever is applicable.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

In counties where ambulance districts created under the provisions of KRS 108.080 to 108.180; fire protection districts created under the provisions of KRS 75.010 to 75.260; or local rescue squad districts created under the provisions of KRS Chapter 39F exist and have enacted an ad valorem tax, the emergency services board may leave those ad valorem tax levies in place. The emergency services board may levy its permitted funding mechanisms in addition to these existing taxes, but the aggregate of the existing tax levied by the original district or districts, and the tax levied by the emergency services board shall not exceed the limits prescribed in Section 7 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

If a fiscal court chooses to create an emergency services board, the provisions of Sections 2 to 11 of this Act shall supersede the structure of the boards of directors and the taxing privileges under KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F. The remaining provisions of KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F, applicable to the operation of the fire department, ambulance service, or emergency squad, shall remain in effect.

Section 12. KRS 65.164 is amended to read as follows:

As used in KRS 65.166 to 65.176, the word "district" shall mean any board, commission or special district created pursuant to the following statutes: ***Sections 2 to 11 of this Act,*** KRS 75.010 to 75.260; KRS 104.450 to 104.680; KRS 108.010 to 108.070; KRS 184.010 to 184.300; KRS 220.010 to 220.613; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 269.100 to 269.270.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 279**, by Representative Marzian:

On page 15, line 20, after "*Committee;*" by deleting "*and*";

On page 15, line 22 by deleting "." and inserting "*; and*" in lieu thereof;

On page 15, between lines 22 and 23 by inserting the following:

"***(e) A clean claim for the Medicaid Early and Periodic Screening Diagnosis and Treatment (EPSDT) program shall include the EPSDT screening form to document the provision of preventive services.***";

On page 15, line 27 after "*forms*" by inserting "***except the Medicaid EPSDT screening form required by subsection (1) of this section***".

Floor Amendment No. 2 to **SB 52**, by Representative Fischer:

On page 2, after line 3, by inserting the following:

"Section 5. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased. ***As used in this section, the word "person" includes an unborn child from fertilization onward, without regard to age, health, or condition of dependency.***

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

  (a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

  (b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

Section 6. KRS 411.135 is amended to read as follows:

In a wrongful death action in which the decedent was ***either an unborn child from fertilization onward, without regard to age, health, or condition of dependency, or*** a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall apply to acts of physicians that cause the death of an unborn child if those acts were committed:

(a) During any abortion to which the woman has consented;

(b) Incident to an in vitro fertilization procedure; or

(c) As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the physician exercised that degree of care and skill which an ordinarily careful, skilled, and prudent physician would exercise under the same or similar circumstances.

(2) Nothing in this chapter shall apply to any acts of a pregnant woman that cause the death of her unborn child.

(3) As used in this section, "abortion" has the same meaning as in KRS 311.720.".

Floor Amendment No. 3 Title to **SB 52**, by Representative Fischer:

By amending the title to read "AN ACT relating to death of children."

Floor Amendment No. 8 to **SB 74**, by Representative Anderson:

On Page 3, after Line 26 by inserting the following:

"Section 2. KRS 91A.400 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, the city legislative body in cities of the ***second, third,*** fourth, and fifth classes may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city.

(2) All moneys collected from the tax authorized by this section ***by cities of the fourth and fifth classes*** shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.".

(3) All moneys collected from the tax authorized by this section by cities of the second and third classes may be expended from any governmental fund of a city and shall be expended in compliance with KRS 91A.030.".

Floor Amendment No. 9 to **SB 74**, by Representative Anderson:

On Page 3, after Line 26 by inserting the following:

"Section . KRS 92.280 is amended to read as follows:

(1) Except as provided in KRS 132.487, the legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

(3) The legislative body of each city of the second to fifth class which imposes license fees on businesses, trades, occupations, and professions based upon a percentage rate on salaries, wages, commissions, or other compensation

earned by persons for work done or services performed within the city may exempt from taxation that amount of salary equal to one hundred and fifty percent (150%) of the federally recognized poverty level for a household of one (1) person.".

Floor Amendment No. 10 to **SB 74**, by Representative Anderson:

On Page 3, after Line 26 by inserting the following:

"Section 2. KRS 91A.400 is amended to read as follows:

In addition to the three percent (3%) transient room tax authorized by KRS 91A.390, the city legislative body in cities of the ***second, third,*** fourth***,*** and fifth classes may levy an additional restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants doing business in the city. All moneys collected from the tax authorized by this section shall be turned over to the tourist and convention commission established in that city as provided by KRS 91A.350 to 91A.390.".

Floor Amendment No. 7 to **SB 74**, by Representative Siler:

On Page 3, after line 26, by inserting,

"SECTION 2. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Any city of the second to the sixth class of cities which is located in more than one (1) county may receive donations from the proceeds of charitable gaming activities authorized by KRS Chapter 238. No funds received as donations shall be expended until the funds have been appropriated as required by KRS 91A.030.".

Floor Amendment No. 1 to **SB 159**, by Representative Gray:

On page 2, after line 27, by inserting the following:

"Section 2. KRS 72.025 is amended to read as follows:

(1) Coroners shall require a post-mortem examination to be performed in the following circumstances:

(a)[~~(1)~~]When the death of a human being appears to be caused by homicide or violence;

(b)[~~(2)~~]When the death of a human being appears to be the result of suicide;

(c)[~~(3)~~]When the death of a human being appears to be the result of the presence of drugs or poisons in the body;

(d)[~~(4)~~]When the death of a human being appears to be the result of a motor vehicle accident and the operator of the motor vehicle left the scene of the accident or the body was found in or near a roadway or railroad;

(e)[~~(5)~~]When the death of a human being occurs while the person is in a state mental institution or mental hospital when there is no previous medical history to explain the death, or while the person is in police custody, a jail or penal institution;

(f)[~~(6)~~] When the death of a human being occurs in a motor vehicle accident and when an external examination of the body does not reveal a lethal traumatic injury;

(g)[~~(7)~~]When the death of a human being appears to be the result of a fire or explosion;

(h)[~~(8)~~] When the death of a child appears to indicate child abuse prior to the death;

(i)[~~(9)~~] When the manner of death appears to be other than natural;

(j)[~~(10)~~] When human skeletonized remains are found;

(k)[~~(11)~~] When post-mortem decomposition of a human corpse exists to the extent that external examination of the corpse cannot rule out injury or where the circumstances of death cannot rule out the commission of a crime;

(l)[~~(12)~~] When the death of a human being appears to be the result of drowning;

(m)[~~(13)~~] When the death of an infant appears to be caused by sudden infant death syndrome in that the infant has no previous medical history to explain the death;

(n)[~~(14)~~] When the death of a human being occurs as a result of an accident;

(o)[~~(15)~~] When the death of a human being occurs under the age of forty (40) and there is no past medical history to explain the death;

(p)[~~(16)~~] When the death of a human being occurs at the work site and there is no apparent cause of death such as an injury or when industrial toxics may have contributed to the cause of death;

(q)[~~(17)~~] When the body is to be cremated and there is no past medical history to explain the death;

(r)[~~(18)~~] When the death of a human being is sudden and unexplained; and

(s)[~~(19)~~] When the death of a human being occurs and the decedent is not receiving treatment by a licensed physician and there is no ascertainable medical history to indicate the cause of death.

(2) A post-mortem examination shall be an autopsy for the purposes of paragraph (p) in subsection (1) of this section. The cost of the autopsy shall be paid by the employer.

Section 3. KRS 72.020 is amended to read as follows:

(1) Any person, hospital, or institution, finding or having possession of the body of any person whose death occurred under any of the circumstances defined in ***subsection (1)(a) to (l)***[~~subsections (1) through (12)~~] of KRS 72.025, shall immediately notify the coroner, or his deputy, and a law enforcement agency, which shall report to the scene within a reasonable time. No person shall remove the body or remove anything from the body until directed to do so by the coroner or his deputy, after the law enforcement agency is present or has failed, within a reasonable period of time, to respond.

(2) The coroner shall take possession of any objects, medical specimens, or articles which, in his opinion, may be helpful in establishing the cause of death, and he can make or cause to be made such tests and examinations of said objects as may be necessary or useful in determining the cause of death. In the event that a criminal prosecution arises, all such objects and articles together with reports of any examinations made upon them, shall be retained by the coroner until their production in evidence is required by the prosecuting authority, unless otherwise directed by written order of the court in which such prosecution is pending.

(3) Upon final disposition of each criminal prosecution under this section, the court shall by appropriate written order dispose of all objects retained under the provisions of this section.

(4) If the law enforcement officer at the scene has probable cause to believe that one of the conditions in subsection (1) of this section exists and the coroner refuses to require a post-mortem examination, the officer shall immediately notify the county or Commonwealth attorney who may proceed pursuant to KRS 72.445.

(5) In all cases listed under KRS 72.025 in which a licensed embalmer, funeral director, or ambulance service is notified and is the first person at the scene of death other than private citizens, he shall notify the coroner and if the death appears to fall within the categories established in ***subsection (1)(a) to (l)***[~~subsections (1) through (12)~~] of KRS 72.025, he shall notify a local law enforcement agency.".

Floor Amendment No. 1 to **SB 305**, by Representative Barrows:

On page 1, lines 10 to 11, bracket and strike through "all of the following criteria are met";

On page 1, line 14, after the semicolon, insert "***or***";

On page 1, line 17, bracket and strike through "The hospital is";

On page 1, line 18, after the semicolon, insert "***or***";

On page 1, line 19, insert an opening bracket before "(b)" and strike through "(b)" and remove the opening bracket after "(b)";

On page 1, line 20, before "The" insert "***4.***   " and bracket and strike through "The hospital is";

On page 1, line 20, after "which" insert "***has the largest county population***" and bracket and strike through "is part";

On page 1, line 21, after "area" insert "***;***" and after "***or***" delete "***is***" and insert a return and "***5.***   ";

On page 1, line 22, delete "***(c)***" and insert "***(b)***" in lieu thereof;

On page 2, line 4, after the semicolon, insert "***and***";

On page 2, line 5, delete "***(d)***" and insert "***(c)***" in lieu thereof; and

On page 5, after line 7, insert the following:

"Section 2. Whereas the regulation of critical access hospitals is vital to the health care needs of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.".

Floor Amendment No. 1 to **SB 163**, by Representative Anderson:

On Page 6, after line 25, by inserting,

"Section 3. KRS 92.280 is amended to read as follows:

(1) Except as provided in KRS 132.487, the legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

(3) The legislative body of each county or city of the second to fifth class which imposes license fees on businesses, trades, occupations, and professions based upon a percentage rate on salaries, wages, commissions, or other compensation earned by persons for work done or services performed within the city may exempt from taxation that amount of salary equal to one hundred and seventy-five percent (175%) of the federally recognized poverty level for a household of four (4) persons."; and

On Page 6, line 26, page 7, line 14, and Page 8, lines 18 and 21, by renumbering Sections 3, 4, 5, and 6 as Sections 4, 5, 6, and 7 respectively.

Floor Amendment No. 2 to **SB 46**, by Representative Anderson:

On page 5, line 6 after the period by inserting: "***The superintendent shall initially recommend no fewer than three (3) principal candidates and shall honor all requests of the council to provide additional candidates.***";

On page 5, line 8 by placing an opening bracket in front of "The" the second time it appears and on line 9 by placing a closing bracket after the period and striking through all language in between.

Floor Amendment No. 3 to **SB 46**, by Representative Anderson:

On page 2, line 11, after "teachers," by inserting "***one (1) community representative,***";

On page 2, line 11, after "administrator" by inserting "***as a nonvoting member except in the event of a tie vote***";

On page 3, line 2, after "purpose." by inserting "***The community member shall be elected by the teachers and the parents of the school at the same time the parents are elected from a ballot that includes two (2) nominees offered by the teachers and two (2) nominees offered by the parent and teacher organization.***" and

On page 3, line 3, after "parent" by inserting "***, community,***".

Floor Amendment No. 1 to **SB 294**, by Representative Treesh:

On page 6, after line 17, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) No pharmacist, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices that may terminate a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.

(2) It shall be an unlawful discriminatory practice for:

(a) Any person to impose penalties, take disciplinary action against, or deny or limit public funds, licenses and certification degrees, or other approvals or documents of qualification to any pharmacist for his or her refusal, based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medical, nursing, or other school, or hospital to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any pharmacist on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds."

Floor Amendment No. 2 to **SB 294**, by Representative Treesh:

On page 6, after line 17, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices that may terminate a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.

(2) It shall be an unlawful discriminatory practice for:

(a) Any person to impose penalties, take disciplinary action against, or deny or limit public funds, licenses and certification degrees, or other approvals or documents of qualification to any person for his or her refusal, based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medical, nursing, or other school, or hospital to

deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any person on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds.".

Floor Amendment No. 3 Title to **SB 294**, by Representative Treesh:

By amending the title to read as follows: "AN ACT relating to health care."

Floor Amendment No. 1 to the House Committee Substitute to **SB 189**, by Representative Riner:

On page 6, following line 14, by inserting:

"Section 6. KRS 344.180 is amended to read as follows:

The powers and duties of the commission shall be:

(1) To employ an executive director and other necessary personnel within the limits of funds made available;

(2) To conduct research projects or make studies into and publish reports on discrimination in Kentucky;

(3) To receive and investigate complaints of discrimination and to recommend ways of eliminating any injustices occasioned thereby;

(4) To hold public hearings and request the attendance of witnesses;

(5) To cooperate with other organizations, public and private, to discourage discrimination;

(6) To encourage fair treatment for all persons regardless of race or national ancestry;

(7) *To advance the cause and defend the rights of the preborn child; and*

(8) To make an annual report to the Governor of its activities under this chapter.".

Floor Amendment No. 2 to **SB 3**, by Representative Lindsay:

On page 1, line 10, following "*this section*" to insert "*unless the person operating the motor vehicle can prove in exculpation that a reasonable inquiry was made of the owner of the motor vehicle as to whether the motor vehicle was insured and received a verbal or written assurance that the motor vehicle was insured*"; and

On page 1, below line 16, to insert the following:

"*(5) The provisions of this section shall not apply to an employee who is operating a motor vehicle registered to his or her employer. Upon learning that the employer's motor vehicle was being operated by an employee, the prosecutor or the court shall dismiss any charges that have been filed under this section and no court costs shall be assessed.*".

Motions, Petitions, and Communications (Continued)

The following member has filed a request to have his name added a as co-sponsors of a Resolution under rules previously suspended:

HR 168: Representative Bather

Announcements

The following meetings were announced:

Judiciary, March 21, 2000, upon adjournment, Room 131

Health and Welfare, March 22, 2000, on recess

State Government, March 22, 2000, noon

Agricultural and Small Business, March 22, 2000, 10:30 a.m., Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 22, 2000.

The motion that the House adjourn until 2:00 p.m., March 22, 2000, was adopted by voice vote.